

Title 34-A: CORRECTIONS
Chapter 3: CORRECTIONAL FACILITIES

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Maine Revised Statutes
Title 34-A: CORRECTIONS
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Subchapter 1: GENERAL PROVISIONS
Article 1: ADMINISTRATIVE PROVISIONS

§3001. CHIEF ADMINISTRATIVE OFFICERS

1. Appointment. The commissioner may appoint chief administrative officers as necessary for the proper performance of the functions of the department. An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

A. To be eligible for appointment as a chief administrative officer, a person must be experienced in correctional management. [2013, c. 491, §5 (AMD).]

B. Chief administrative officers shall report directly to the commissioner or to the deputy commissioner or an associate commissioner if so directed by the commissioner. [2013, c. 491, §5 (AMD).]

[2013, c. 491, §5 (AMD) .]

2. Acting chief administrative officer. Notwithstanding any other provision of law, the commissioner may delegate any employee of the department to serve as the acting chief administrative officer of any facility, if the office of the chief administrative officer of the facility is vacant.

A. The acting chief administrative officer shall serve for a period not to exceed 180 days. [1983, c. 459, §6 (NEW).]

B. Service as the acting chief administrative officer of a facility is considered a temporary additional duty for the person so delegated. [1991, c. 314, §26 (AMD).]

[1991, c. 314, §26 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §26 (AMD). 1999, c. 583, §5 (AMD). 2013, c. 491, §5 (AMD).

§3001-A. BOARDS OF VISITORS

1. Appointment. The Governor shall appoint a board of 5 visitors for each correctional facility under the department, as authorized by Title 5, section 12004-I, subsection 5.

A. The terms of the members of the boards of visitors are for 3 years. [2005, c. 683, Pt. B, §26 (NEW).]

B. Members of the boards of visitors are eligible for reappointment at the expiration of their terms. [2005, c. 683, Pt. B, §26 (NEW).]

C. A member of the Legislature or an employee of the department may not serve on any board of visitors. [2005, c. 683, Pt. B, §26 (NEW).]

D. At least one member of each board must be a person licensed by this State to provide mental health services. [2005, c. 683, Pt. B, §26 (NEW).]

E. Each member of the boards of visitors must be compensated according to the provisions of Title 5, chapter 379. [2005, c. 683, Pt. B, §26 (NEW).]

F. The Governor shall appoint a chair from the membership. [2005, c. 683, Pt. B, §26 (NEW) .]

[2005, c. 683, Pt. B, §26 (NEW) .]

2. Duties. Boards of visitors have the following duties.

A. Each board of visitors shall inspect the correctional facility to which it is assigned. Each board of visitors must be provided open access to all physical areas of the correctional facility, including access to areas housing clients. Each board of visitors must be provided the opportunity to speak to clients and to staff. Members of the board shall comply with all departmental policies and procedures and facility security practices regarding access to the correctional facility, shall adhere to all federal and state law regarding confidentiality and shall refer concerns or complaints regarding specific individuals to the chief administrative officer or advocate. [2005, c. 683, Pt. B, §26 (NEW) .]

B. Each board of visitors shall review the management of the correctional facility to which it is assigned to determine whether that management is consistent with the philosophy, mission and policy goals of the department and facility. Each board of visitors shall prepare an annual report including its recommendations and shall provide copies of its report to the chief administrative officer of the facility, the commissioner and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The commissioner shall provide copies with the department's response to the reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters within one month of receiving the annual reports. [2005, c. 683, Pt. B, §26 (NEW) .]

C. Each board of visitors shall appear before the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters upon request. [2005, c. 683, Pt. B, §26 (NEW) .]

D. Boards of visitors shall meet regularly and at least 4 times a year. At each meeting, a board of visitors may request and must receive information from the chief administrative officer as the board determines will assist in the review of the management of the facility. To the extent that a board of visitors is not discussing matters made confidential by federal or state law, meetings of boards are public proceedings and must be conducted in accordance with Title 1, section 403. Boards of visitors may meet jointly. [2005, c. 683, Pt. B, §26 (NEW) .]

E. Each board of visitors shall share copies of that board's annual report with the other boards. [2005, c. 683, Pt. B, §26 (NEW) .]

[2005, c. 683, Pt. B, §26 (NEW) .]

3. Visit to correctional facilities and communications with clients and staff. A member of a board of visitors may visit the correctional facility to which that board is assigned and may speak with clients and with staff. The member shall comply with all departmental policies and procedures and facility security practices regarding access to the correctional facility, shall adhere to all federal and state law regarding confidentiality and shall refer concerns or complaints regarding specific individuals to the chief administrative officer or advocate.

[2005, c. 683, Pt. B, §26 (NEW) .]

4. Volunteer activities. Volunteer activities of a member of a board of visitors may be proscribed by departmental policies regarding volunteer activities generally.

[2005, c. 683, Pt. B, §26 (NEW) .]

SECTION HISTORY

2005, c. 683, §B26 (NEW) .

§3002. BOARDS OF VISITORS**(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§13,59 (AMD). 1983, c. 812, §258 (AMD). 1989, c. 503, §B159 (AMD). 2005, c. 216, §1 (RPR). 2005, c. 488, §10 (AMD). 2005, c. 683, §B27 (RP).

§3002-A. POLICY REVIEW COUNCIL**(REPEALED)**

SECTION HISTORY

1997, c. 752, §34 (NEW). 1999, c. 770, §§3-5 (AMD). 2011, c. 344, §32 (RP).

§3002-B. PRISON INDUSTRIES ADVISORY COUNCIL

1. Appointments. The commissioner shall appoint the 6-member Prison Industries Advisory Council, referred to in this section as "the council," as established by Title 5, section 12004-I, subsection 4-B. The term of office for members is 3 years. The initial appointments are:

- A. Three members for 3 years; [2007, c. 503, §2 (NEW).]
- B. Two members for 2 years; and [2007, c. 503, §2 (NEW).]
- C. One member for one year. [2007, c. 503, §2 (NEW).]

A replacement for a council member who does not complete the council member's term of office serves for the remainder of the unexpired term.

[2007, c. 503, §2 (NEW) .]

2. Council members. The council members must include at least 3 private sector representatives, each of whom is a business professional in the area of marketing, financial management, manufacturing or retail sales. In addition, council members must include 2 State Government representatives who work in the areas of prison security, labor or economic development. The commissioner shall also appoint one department employee to serve as a nonvoting member.

[2007, c. 503, §2 (NEW) .]

3. Duties. The council shall work in cooperation with managers of prison industries programs, prison security staff and the business community to identify methods to enhance programs and improve efficiency of operations, including at a minimum:

- A. Developing a business and marketing plan for prison industries; [2007, c. 503, §2 (NEW) .]
- B. Developing recommendations to improve advertising and retail sales and exploring more diversified product lines; [2007, c. 503, §2 (NEW) .]
- C. Reviewing the financial reporting and accounting systems and recommending a consistent and uniform format for all prison industries reporting; [2007, c. 503, §2 (NEW) .]
- D. Making recommendations related to creating prison industries under the federal Prison Industry Enhancement Certification Program authorized by 18 United States Code, Section 1761(2006); and [2007, c. 503, §2 (NEW) .]

E. Reviewing the cost-benefit ratio of the prison industries programs. [2007, c. 503, §2 (NEW) .]

[2007, c. 503, §2 (NEW) .]

4. Meetings; reports. The council shall meet at least quarterly, shall make interim recommendations and at least an annual report to the commissioner and shall send copies of all interim recommendations and reports to the members of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

[2007, c. 503, §2 (NEW) .]

SECTION HISTORY

2007, c. 503, §2 (NEW).

§3003. CONFIDENTIALITY OF INFORMATION

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§14,59 (AMD). 1985, c. 59, (AMD). 1985, c. 266, §2 (AMD). 1985, c. 737, §A90 (AMD). 1987, c. 633, §§2,3 (AMD). 1987, c. 714, §10 (AMD). 1991, c. 314, §27 (AMD). 1993, c. 13, §§1,2 (AMD). 1993, c. 354, §14 (AMD). 1995, c. 368, §§R8-10 (AMD). 1995, c. 418, §A39 (AMD). 1997, c. 278, §§3-5 (AMD). 1997, c. 464, §§9,10 (AMD). 1997, c. 714, §§2,3 (AMD). 1999, c. 583, §6 (AMD). 2001, c. 208, §1 (AMD). 2001, c. 386, §12 (AMD). 2001, c. 452, §15 (AMD). 2003, c. 205, §11 (RP).

§3004. LEGAL ACTIONS

1. Contract actions. Actions founded on any contract made with the State Purchasing Agent, or with any official of the department under the authority granted by the State Purchasing Agent, on behalf of a correctional or detention facility may be brought by the official making the contract or the official's successor in office.

[1991, c. 314, §28 (AMD) .]

2. Actions for injuries to property. Actions for injuries to the real or personal property of the State, used by any correctional or detention facility and under the management of an officer of the facility, may be prosecuted in the name of the officer or the officer's successor in office.

[1991, c. 314, §28 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §28 (AMD).

§3005. EMERGENCIES

When emergency situations are certified by the chief administrative officer to exist at a correctional or detention facility, the commissioner may, with the approval of the Governor, assign personnel as may be necessary from another facility or division of the department to assist in controlling the emergency situation. [1991, c. 314, §29 (AMD).]

1. Temporary assignment. The assignment of personnel shall be only for the period during which the emergency exists.

[1983, c. 459, §6 (NEW) .]

2. Compensation. Any personnel transferred are entitled to receive compensation as required by the Civil Service Law, rules and contract terms.

[1985, c. 785, Pt. B, §152 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 785, §B152 (AMD). 1991, c. 314, §29 (AMD) .

§3006. IMPROPER CONDUCT OF CORRECTIONAL FACILITY OFFICERS (REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§15,59 (RP) .

§3007. POSTING OF POLITICAL MATERIAL

The chief administrative officer of each correctional or detention facility shall provide in at least one accessible area in each facility an appropriate space for the posting of written political material sent for that purpose to the chief administrative officer by candidates for state office or federal office in this State. [1991, c. 314, §30 (AMD) .]

1. One item limit. No more than one item of written political material may be posted in one place on behalf of any one candidate.

[1983, c. 459, §6 (NEW) .]

2. Removal. Written political material shall be removed after the elections for which it is intended for use.

[1983, c. 459, §6 (NEW) .]

3. Voting place. If there is a voting place within the facility, the posting place may not be located within 250 feet of the entrance to the voting place.

[1983, c. 459, §6 (NEW) .]

4. Violation. The posting of written political material under this section is not a violation of Title 21-A, section 32 or Title 21-A, section 674, subsection 1, paragraph C.

[1993, c. 473, §43 (AMD); 1993, c. 473, §46 (AFF) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 161, §15 (AMD). 1991, c. 314, §30 (AMD). 1993, c. 473, §43 (AMD). 1993, c. 473, §46 (AFF) .

§3011. INVESTIGATIVE OFFICERS AND OTHER LAW ENFORCEMENT OFFICERS

1. Exercise of law enforcement powers. Investigative officers and other employees of the department who are certified by the Board of Trustees of the Maine Criminal Justice Academy as law enforcement officers may exercise the powers of other law enforcement officers with respect to crimes or juvenile crimes relating to the security or orderly management of a facility and engage in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice as defined in Title 15, section 3308, subsection 7, paragraph A, subparagraph (2), if authorized to exercise these powers by the commissioner. These employees may issue administrative subpoenas, if authorized to exercise these powers by the commissioner and by the Attorney General or the Attorney General's designee. These powers are in addition to any powers the employees may otherwise have as employees of the department. Internal investigations of employees of the department must be conducted pursuant to any applicable collective bargaining agreement.

[2013, c. 80, §6 (AMD) .]

2. Working agreement. The commissioner shall negotiate a working agreement with the Department of the Attorney General concerning procedures and respective responsibilities for the exercise of law enforcement powers by investigative officers and other employees pursuant to subsection 1.

[2013, c. 80, §6 (AMD) .]

SECTION HISTORY

1997, c. 102, §2 (NEW). 2007, c. 102, §8 (AMD). 2009, c. 142, §16 (AMD). 2013, c. 80, §6 (AMD).

§3013. SPECIAL RESPONSE TEAMS

The commissioner may establish ongoing special response teams consisting of personnel from more than one facility or division of the department to assist, as determined by the commissioner, in responding to special situations anywhere in the department. [2009, c. 498, §1 (NEW) .]

SECTION HISTORY

2009, c. 498, §1 (NEW).

§3008. REALLOCATION OF CORRECTIONAL FACILITY APPROPRIATIONS (REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 583, §7 (RP).

§3009. PUBLIC WAYS AND PARKING AREAS

1. Rules. The chief administrative officers of correctional or detention facilities may adopt and enforce rules, subject to the approval of the commissioner, governing the use of public ways and parking areas maintained by the State at the facilities.

A. The rules must be adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [1991, c. 314, §31 (AMD) .]

B. The Secretary of State shall forward a copy of the rules, attested under the Great Seal of the State of Maine, to the District Court in the area of jurisdiction. [1983, c. 459, §6 (NEW) .]

[1991, c. 314, §31 (AMD) .]

2. Special police officers. The chief administrative officers of correctional or detention facilities may appoint and employ, subject to the Civil Service Law, special police officers for the purpose of enforcing rules promulgated under subsection 1.

A. The special police officers shall:

- (1) Patrol all the public ways and parking areas subject to this section;
- (2) Enforce rules promulgated under this section; and
- (3) Arrest and prosecute violators of the rules. [1983, c. 459, §6 (NEW).]

B. The State Police, sheriffs, deputy sheriffs, police officers and constables who have jurisdiction over the areas in which the correctional or detention facilities are located shall, insofar as possible, cooperate with the special police officers in the enforcement of the rules promulgated under subsection 1. [1991, c. 314, §32 (AMD).]

[1991, c. 314, §32 (AMD) .]

3. Court procedure. The District Court, in the areas in which the facilities are located, has jurisdiction in all proceedings brought under this section.

A. The District Court shall take judicial notice of all rules promulgated under subsection 1. [1983, c. 459, §6 (NEW).]

B. In any prosecution for a violation of the rules, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule. [1983, c. 459, §6 (NEW).]

[1991, c. 314, §33 (AMD) .]

4. Prohibited acts; fines. Prohibited acts and fines under this section are governed as follows.

A. A person is guilty of a public ways or parking violation if he violates any rule promulgated pursuant to this section. [1983, c. 459, §6 (NEW).]

B. Upon conviction of a public ways or parking violation, a person shall pay a fine as follows:

- (1) For the first offense in any calendar year, a fine of \$1;
- (2) For the 2nd offense in any calendar year, a fine of \$2; and
- (3) For each offense in excess of 2 in any calendar year, a fine of \$5. [1983, c. 459, §6 (NEW).]

C. Notwithstanding any other law, the fines and costs of court paid under this section shall inure to the municipality in which the proceedings take place. [1983, c. 459, §6 (NEW).]

D. Offenses not covered by the rules promulgated under subsection 1 shall be dealt with as otherwise provided by law. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 785, §B153 (AMD). 1991, c. 314, §§31-33 (AMD).

§3010. LIMIT ON PRISON POPULATION IN KNOX COUNTY (REPEALED)

SECTION HISTORY

1989, c. 925, §18 (NEW). 1997, c. 28, §1 (RP).

§3012. FOOD AND FOOD SUPPLIES

1. Operation of commissary. Notwithstanding Title 5, section 8-C, the chief administrative officer of a correctional facility or detention facility may, subject to the approval of the commissioner, permit the operation of a commissary for the sale of food and food supplies to persons residing in the facility and to facility employees.

[2005, c. 488, §11 (NEW) .]

2. Provision of meals to employees. Notwithstanding Title 5, section 8-C, the chief administrative officer of a correctional facility or detention facility may, subject to the approval of the commissioner, purchase meals for or otherwise provide meals without charge to any facility employee who eats such meals within the scope of employment and in so doing serves a function of employment.

[2005, c. 488, §11 (NEW) .]

SECTION HISTORY

2005, c. 488, §11 (NEW) .

Article 2: COMMITTED OFFENDERS GENERALLY

§3031. RIGHTS

Any person residing in a correctional or detention facility has a right to: [1991, c. 314, §34 (AMD) .]

1. Food. Nutritious food in adequate quantities;

[1983, c. 459, §6 (NEW) .]

2. Medical care. Adequate professional medical care and adequate professional mental health care, which do not include medical treatment or mental health treatment requested by the client that the facility's treating physician or treating psychiatrist or psychologist determines unnecessary. The commissioner may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this subsection and a fee not to exceed \$5 for prescriptions, medication or prosthetic devices. Except as provided in paragraph A, every client may be charged a medical or dental services fee for each medical or dental visit, prescription, medication or prosthetic device. The facility shall collect the fee. All money received by the department under this subsection is retained by the facility to offset the cost of medical and dental services, prescriptions, medication and prosthetic devices.

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

- (1) Receives treatment initiated by facility staff;
- (2) Is a juvenile;
- (3) Is pregnant;
- (4) Is a person with a serious mental illness or developmental disability. For the purposes of this paragraph, "a person with a serious mental illness or developmental disability" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;
- (5) Is an inpatient at a state-funded mental health facility or is a resident at a state-funded facility for individuals with adult developmental disabilities;

- (6) Is undergoing follow-up treatment;
- (7) Receives emergency treatment as determined by the facility's medical or dental staff; or
- (8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device. [2011, c. 542, Pt. A, §59 (AMD).]

B. Notwithstanding paragraph A, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client incarcerated in a facility. The following assets are not subject to judgment under this paragraph:

- (1) Joint ownership, if any, that the client may have in real property;
- (2) Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and
- (3) The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family. [1995, c. 201, §2 (RPR).]

C. [1995, c. 201, §2 (RP).]

A person who has not attained 18 years of age but who is residing in a correctional facility pursuant to a conviction as an adult may consent to necessary medical care as if the person had attained 18 years of age.

[2011, c. 542, Pt. A, §59 (AMD) .]

3. Living conditions. An acceptable level of sanitation, ventilation and light;

[1983, c. 459, §6 (NEW) .]

4. Sleeping space. A reasonable amount of space per person in any sleeping area;

[1983, c. 459, §6 (NEW) .]

5. Exercise and recreation. A reasonable opportunity for physical exercise;

[1989, c. 127, §5 (AMD) .]

6. Protection from abuse. Protection against any physical or psychological abuse;

[1983, c. 459, §6 (NEW) .]

7. Area for personal effects. A reasonably secure area for the maintenance of permitted personal effects; and

[1983, c. 459, §6 (NEW) .]

8. Visitation. A reasonable opportunity to visit with relatives and friends, in accordance with departmental policies and institutional procedures, provided that the department may restrict or prohibit visits when the restriction or prohibition is necessary for the security of the institution.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§16,59 (AMD). 1985, c. 752, §3 (AMD). 1987, c. 276, (AMD). 1989, c. 127, §5 (AMD). 1991, c. 314, §§34,35 (AMD). 1995, c. 201, §2 (AMD). 1995, c. 462, §D6 (AMD). 1999, c. 583, §8 (AMD). 2001, c. 458, §4 (AMD). 2011, c. 542, Pt. A, §59 (AMD).

§3031-A. TRANSPORTATION OUTSIDE THE STATE FOR MEDICAL CARE

1. Transportation. A person residing in a correctional or detention facility may be transported by the department for medical care outside the State if the facility's treating physician determines the care is necessary and unavailable within the State.

[2001, c. 386, §13 (NEW) .]

2. Costs. The person, if able, shall pay the cost of transportation and the per diem compensation of the accompanying officers.

[2001, c. 386, §13 (NEW) .]

SECTION HISTORY

2001, c. 386, §13 (NEW).

§3031-B. LIMITATION ON REIMBURSEMENT RATE TO MEDICAL SERVICE PROVIDERS FOR SERVICES OUTSIDE DEPARTMENT FACILITY

Effective July 1, 2004, the department or its contracted medical provider may pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no greater than the reimbursement rate applicable to that provider and that service as established by rule of the Department of Human Services for the MaineCare program under Title 22. This limitation applies to all medical care services, goods, prescription drugs and medications provided to a person outside the facility. [2003, c. 513, Pt. E, §1 (NEW).]

SECTION HISTORY

2003, c. 513, §E1 (NEW).

§3032. DISCIPLINARY ACTION

The commissioner shall adopt rules describing disciplinary offenses and punishments in facilities under the general administrative supervision of the department and establishing a fair and orderly procedure for processing disciplinary complaints. The rules must conform to the following requirements. [1991, c. 314, §36 (AMD).]

1. Fairness and equity. The rules shall ensure the maintenance of a high standard of fairness and equity.

[1983, c. 459, §6 (NEW) .]

2. Corporal punishment. Corporal punishment may not be imposed.

[1983, c. 459, §6 (NEW) .]

3. Segregation. The imposition of segregation at all correctional facilities, except juvenile correctional facilities, is subject to the following conditions.

A. All punishments involving segregation shall be first approved by the chief administrative officer of the correctional facility. [1983, c. 459, §6 (NEW).]

B. The prisoner shall be provided with a sufficient quantity of wholesome and nutritious food. [1983, c. 459, §6 (NEW).]

C. Adequate sanitary and other conditions required for the health of the prisoner shall be maintained. [1983, c. 459, §6 (NEW).]

D. When segregation exceeds 24 hours, the chief administrative officer of the correctional facility shall cause the facility's physician or a member of the facility's medical staff to visit the person immediately and, at least once in each succeeding 24-hour period of confinement, to examine the person's state of health. When no physician or medical staff member is available within the facility to visit as required by this paragraph, a staff person who has received in-service training appropriate for the duties required by this section from a licensed health professional shall visit in lieu of the visit by the physician or medical staff member the person in confinement. The staff person making the visit shall immediately contact the physician or medical staff member on call if there is reasonable cause to believe the action is necessary.

(1) The chief administrative officer shall give full consideration to recommendations of the physician or medical staff member as to the person's dietary needs and the conditions of the person's confinement required to maintain that person's health.

(2) If the recommendations of the physician or medical staff member regarding a person's dietary or other health needs while in segregation are not carried out, the chief administrative officer shall immediately convey the reasons and circumstances for this decision to the commissioner for review and final disposition. [1989, c. 127, §6 (AMD).]

E. If a person is held in segregation or solitary confinement for more than 5 days, the chief administrative officer shall send a report of the confinement to the commissioner, giving the reasons for the confinement. [1983, c. 459, §6 (NEW).]

[1999, c. 583, §9 (AMD) .]

4. Loss of good time. All punishments involving loss of good time or withdrawal of deductions must be first approved by the chief administrative officer.

[1997, c. 464, §11 (AMD) .]

5. Specific facilities. Punishment at specific correctional facilities is governed as follows.

A. Punishment at all correctional facilities, except juvenile correctional facilities, may consist of warnings, loss of privileges, restitution, monetary sanctions, labor at any lawful work, confinement to a cell, segregation or a combination of these. [2005, c. 329, §7 (AMD).]

B. Punishment at juvenile correctional facilities and any detention facility may consist of warnings, restitution, labor at any lawful work and loss of privileges. [1999, c. 583, §11 (AMD).]

[2005, c. 329, §7 (AMD) .]

5-A. Restitution. The imposition of restitution at all facilities is subject to the following conditions.

A. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by the prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed at a facility, a prisoner or a juvenile who is subject to that restitution and who receives money from any source shall pay 25% of that money to the facility where the damage occurred. The facility shall collect that money and apply it to defray the cost of replacement or repair of the items destroyed or damaged. Money received by the prisoner or juvenile and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the prisoner or

juvenile and transferred from the telephone call account to the department's general client account at the time of the prisoner's or juvenile's discharge or transfer to supervised community confinement or community reintegration status must be collected and disbursed as provided in this paragraph. [2005 , c. 506 , §4 (AMD) .]

A-1. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed at a facility, a prisoner or a juvenile who is subject to that restitution and who receives money from any source shall pay 25% of that money to the facility where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care. Money received by the prisoner or juvenile and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the prisoner or juvenile and transferred from the telephone call account to the department's general client account at the time of the prisoner's or juvenile's discharge or transfer to supervised community confinement or community reintegration status must be collected and disbursed as provided in this paragraph. [2005 , c. 506 , §5 (AMD) .]

B. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this chapter. The facility receiving the prisoner or juvenile shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided. [1995 , c. 197 , §2 (AMD) .]

B-1. A prisoner or juvenile who is discharged from the facility remains liable for any restitution authorized under this chapter. If the prisoner or juvenile is returned to the custody of the department, any facility in which the prisoner or juvenile resides shall collect the restitution and ensure that it is used to defray the costs as set out in this chapter. [2003 , c. 706 , Pt. A , §9 (NEW) .]

C. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for restitution payments. [1995 , c. 197 , §2 (NEW) ; 2003 , c. 689 , Pt. B , §6 (REV) .]

[2005 , c. 506 , §§4 , 5 (AMD) .]

5-B. Monetary sanctions. The imposition of monetary sanctions at adult correctional facilities is subject to the following conditions.

A. When a monetary sanction is imposed at a facility, a prisoner who is subject to that monetary sanction and who receives money from any source shall pay 25% of that money to the facility where the monetary sanction was imposed. The facility shall collect that money and apply it to defray the cost of holding disciplinary hearings. Money received by the prisoner and directly deposited into a telephone call account established by the department for the sole purpose of paying for use of the department's client telephone system is not subject to this paragraph, except that 25% of any money received by the prisoner and transferred from the telephone call account to the department's general client account at the time of the prisoner's discharge or transfer to supervised community confinement must be collected and disbursed as provided in this paragraph. [2005 , c. 506 , §6 (AMD) .]

B. A prisoner who is transferred to another facility remains liable for any monetary sanction authorized under this chapter. The facility receiving the prisoner shall collect the monetary sanction and transfer it to the facility where the monetary sanction was imposed. [2005 , c. 329 , §8 (NEW) .]

C. A prisoner who is discharged from a facility remains liable for any monetary sanction authorized under this chapter. If the prisoner is returned to the custody of the department, any facility in which the prisoner resides shall collect the monetary sanction and ensure that it is used to defray costs as set out in this chapter. [2005 , c. 329 , §8 (NEW) .]

D. A monetary sanction is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for monetary sanction payments. [2005, c. 329, §8 (NEW).]

[2005, c. 506, §6 (AMD).]

6. Impartial hearing. If the punishment may affect the term of commitment, sentence or parole eligibility or may involve restitution, monetary sanctions, labor at any lawful work or segregation, the chief administrative officer of the facility shall, before imposing punishment, provide an impartial hearing at which the client has the following rights.

A. The client is entitled to be informed in writing of the specific nature of the alleged misconduct. [1991, c. 314, §39 (AMD).]

B. The client is entitled to the right to be present at the hearing, except that the client may be prevented from attending or be removed if the client's behavior indicates that the client is in danger of self-injury or a danger to other persons or property. [1991, c. 314, §39 (AMD).]

C. The client is entitled to present evidence on the client's behalf. [1991, c. 314, §39 (AMD).]

D. The client is entitled to call one or more witnesses, which right may not be unreasonably withheld or restricted. [1991, c. 314, §39 (AMD).]

E. The client is entitled to question any witness who testifies at the hearing, which right may not be unreasonably withheld or restricted. [1991, c. 314, §39 (AMD).]

F. The client is entitled to be represented by counsel substitute as prescribed in the rules. [1991, c. 314, §39 (AMD).]

G. A record must be maintained of all disciplinary complaints, hearings, proceedings and dispositions. [1991, c. 314, §39 (AMD).]

H. The client is entitled to appeal the final disposition, before imposition of punishment, to the chief administrative officer of the facility. [1991, c. 314, §39 (AMD).]

I. If, at any stage of the proceedings, the client is cleared of the charges in a complaint, or the complaint is withdrawn, all documentation relating to the complaint must be expunged. [1991, c. 314, §39 (AMD).]

[2005, c. 329, §9 (AMD).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§17,59 (AMD). 1985, c. 352, §§3-5 (AMD). 1987, c. 299, (AMD). 1989, c. 127, §6 (AMD). 1991, c. 314, §§36-39 (AMD). 1995, c. 197, §2 (AMD). 1997, c. 464, §11 (AMD). 1999, c. 401, §J4 (AMD). 1999, c. 583, §§9-11 (AMD). 2003, c. 689, §B6 (REV). 2003, c. 706, §A9 (AMD). 2005, c. 329, §§7-9 (AMD). 2005, c. 506, §§4-6 (AMD).

§3033. WORK ASSIGNMENTS

1. Public works. The commissioner may authorize the employment of able-bodied prisoners in the construction and improvement of highways or other public works within the State under such arrangements as may be made with the Department of Transportation or with another department or commission of the State,

county or municipality in charge of these public works, and the commissioner may prescribe whatever rules and conditions the commissioner considers expedient to ensure the proper care and treatment of the prisoners while so employed and to ensure their safekeeping and return.

[1989, c. 127, §7 (AMD) .]

2. Fire or disaster. The commissioner may authorize the training and use of able-bodied prisoners by the Bureau of Forestry or the Maine Emergency Management Agency, to fight fires or provide assistance during or after a civil disaster.

[1989, c. 127, §8 (AMD); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

3. Charitable property improvement. The commissioner may authorize the use of able-bodied prisoners to provide assistance in the improvement of property owned by charitable, nonprofit organizations.

A. The commissioner shall promulgate such rules as he deems proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and departmental employees. [1983, c. 581, §§ 18, 59 (NEW) .]

B. The commissioner may request that charitable, nonprofit organizations pay for the transportation of the prisoners and pay the per diem compensation of guards, correctional officers or instructors who must accompany the prisoners or oversee the work to be performed. [1983, c. 581, §§ 18, 59 (NEW) .]

[1983, c. 581, §§ 18, 59 (RPR) .]

4. Prohibited act. A person is guilty of escape under Title 17-A, section 755, if that person is a prisoner and escapes from any assignments described in this section or from any other assignment beyond the walls or other security restraints surrounding a correctional facility or otherwise off the grounds of an assigned location.

[1989, c. 127, §9 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§18, 59 (AMD). 1987, c. 370, §7 (AMD). 1989, c. 127, §§7-9 (AMD). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 405, Pt. A, §23 (REV).

§3034. PRISONER LABOR

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§19,59 (RP).

§3035. REHABILITATIVE PROGRAMS

The commissioner may adopt, implement and establish rules for rehabilitative programs, including work release, restitution and furlough, as authorized by Title 17-A, chapter 54, within the facilities under the commissioner's control. [1991, c. 314, §40 (AMD) .]

1. Work release and restitution. The chief administrative officer may permit any client under sentence to the department and any juvenile client considered to be worthy of trust to participate in activities outside the facility under the following conditions.

A. Activities may include training and employment. [1983, c. 459, §6 (NEW) .]

B. Activities are subject to rules promulgated by the commissioner. [1983, c. 459, §6 (NEW).]

C. Activities must, in the judgment of the chief administrative officer, contribute to the reformation of the client and assist in preparing the client for eventual release. [1991, c. 314, §40 (AMD).]

D. Transportation to work release job sites must be approved by the chief administrative officer.

(1) Clients participating in the work release program may be assessed an equitable share of the cost of the transportation.

(2) Funds received from clients for work release transportation must be placed in the General Fund. [2013, c. 80, §7 (AMD).]

E. Every client participating in the work release program is liable for the cost of board in the facility.

(1) The reasonable cost of board for a client in a facility is fixed by the commissioner. In fixing the reasonable cost of the board to be paid, the commissioner shall take into consideration other state laws or judicial determinations that affect the client's income.

(2) Funds received from clients for the board must be placed in the General Fund. [1991, c. 314, §40 (AMD).]

[2013, c. 80, §7 (AMD) .]

2. Furlough. Subject to subsection 5, the commissioner may grant to a client under sentence to the department and a juvenile client furlough from the facility in which the client is confined under the following conditions.

A. Furlough may only be granted subject to rules adopted by the commissioner. [1983, c. 459, §6 (NEW).]

B. Furlough may be granted for not more than 10 days at one time for a visit to a dying relative, for attendance at the funeral of a relative, for the contacting of prospective employers or for any other reason consistent with the rehabilitation of a client. [1991, c. 314, §40 (AMD).]

C. Furlough may be granted for the obtaining of medical services for a period longer than 10 days if medically required. [1983, c. 459, §6 (NEW).]

[1991, c. 314, §40 (AMD) .]

3. Copy of rules. Copies of rules must be provided to clients as follows.

A. The chief administrative office of a facility adopting a rehabilitative program under this section shall provide to any client permitted outside a facility under this section a copy of the rules of the commissioner applicable to the program in which the client is permitted to participate or to the client's furlough. [1991, c. 314, §40 (AMD).]

B. The client shall attest to the receipt of the copy of the rules. [1991, c. 314, §40 (AMD).]

[1991, c. 314, §40 (AMD) .]

4. Prohibited acts. Prohibited acts under this section are governed as follows.

A. A person who is 17 years of age or older is guilty of interference with a rehabilitative program or furlough if the person willfully obstructs, intimidates or otherwise abets any client participating in a program, or on furlough, under this section, and thereby contributes or causes the client to violate the terms of the client's program participation or furlough, after having been warned by the chief administrative officer of the facility to end the relationship or association with the client. [1991, c. 314, §40 (AMD).]

B. Interference with a rehabilitative program or furlough is a Class E crime, except that, notwithstanding Title 17-A, the court may sentence a person to imprisonment for not more than 11 months. [2009 , c. 2, §93 (COR) .]

[2009, c. 2, §93 (COR) .]

5. Time served before furlough. No furlough may be granted until the client has served 50% of the original sentence imposed, after consideration of any good time that the client has received and retained under Title 17-A, section 1253. This section does not apply to furloughs granted under subsection 2, paragraph B or C.

[1991, c. 314, §40 (AMD) .]

6. Notification of law enforcement agencies. A prisoner may not participate in a furlough under subsection 2 unless, in advance of the chief administrative officer's consideration of the request for that furlough, the department notifies:

A. The district attorney for the district in which the prisoner will reside; [1997, c. 714, §4 (NEW) .]

B. The sheriff for the county in which the prisoner will reside; [1997, c. 714, §4 (NEW) .]

C. The chief of police of any municipality in which the prisoner will reside; [1997, c. 714, §4 (NEW) .]

D. The Department of Public Safety; and [1997, c. 714, §4 (NEW) .]

E. The district attorney for the district where the prisoner's underlying commitment to the department originated. [1997, c. 714, §4 (NEW) .]

If the department grants a prisoner furlough request, the department shall again notify those listed in paragraphs A to E.

A furlough may be granted in an emergency without any prior notification as long as notification is given as soon as practicable.

[1997, c. 714, §4 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§20,59 (AMD). 1983, c. 734, (AMD). 1987, c. 729, §§1,2 (AMD). 1991, c. 314, §40 (AMD). 1997, c. 714, §4 (AMD). RR 2009, c. 2, §93 (COR). 2013, c. 80, §7 (AMD).

§3035-A. SOLID WASTE RECYCLING PROGRAM

(REPEALED)

SECTION HISTORY

1989, c. 587, §1 (NEW). 1999, c. 583, §12 (RP).

§3036. HALFWAY HOUSE PROGRAM

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §41 (AMD). 1995, c. 502, §F21 (AMD). 1999, c. 583, §13 (AMD). 2003, c. 205, §12 (RP).

§3036-A. SUPERVISED COMMUNITY CONFINEMENT PROGRAM

1. Establishment. The commissioner may adopt rules establishing and governing a supervised community confinement program for certain prisoners committed to the department.

[1991, c. 845, §4 (NEW) .]

2. Participation. The commissioner may transfer any prisoner committed to the department to be transferred from a correctional facility to supervised community confinement subject to the following restrictions.

A. A transfer to supervised community confinement may only be granted subject to rules adopted by the commissioner. [1991, c. 845, §4 (NEW).]

B. A prisoner may not be transferred to supervised community confinement until the prisoner has served at least 2/3 of the term of imprisonment imposed or, in the case of a split sentence, at least 2/3 of the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253 if the term of imprisonment or, in the case of a split sentence, the unsuspended portion is more than 5 years. A prisoner may not be transferred to supervised community confinement until the prisoner has served at least 1/2 of the term of imprisonment imposed or, in the case of a split sentence, at least 1/2 of the unsuspended portion after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253 if the term of imprisonment or, in the case of a split sentence, the unsuspended portion is 5 years or less. [2001, c. 141, §1 (AMD).]

C. Except as provided in paragraph C-1, a prisoner may not be transferred to supervised community confinement unless the prisoner has no more than 18 months remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253. [2007, c. 240, Pt. ZZZ, §2 (AMD).]

C-1. If the commissioner determines that the average statewide probation case load is no more than 90 probationers to one probation officer, then a prisoner may be transferred to supervised community confinement if that prisoner has no more than 2 years remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253. [2003, c. 711, Pt. A, §22 (NEW); 2003, c. 711, Pt. D, §2 (AFF).]

D. A prisoner may not be transferred to supervised community confinement if the prisoner has a security classification level higher than minimum. [1991, c. 845, §4 (NEW).]

[2007, c. 240, Pt. ZZZ, §2 (AMD) .]

3. Mandatory conditions for supervised community confinement. Prisoners transferred to supervised community confinement are subject to the following mandatory conditions.

A. The prisoner must be involved in a program of work or education that is approved by the commissioner together with any treatment program that the commissioner might require. The commissioner may waive the requirement of involvement in a program of work or education for a prisoner who is involved in an approved full-time treatment program. [2007, c. 536, §4 (AMD).]

B. The prisoner must live in a residence that is approved by the commissioner. [1991, c. 845, §4 (NEW).]

C. The prisoner must be subject to a curfew set by the commissioner during which time the prisoner must be at the approved residence. [1991, c. 845, §4 (NEW).]

D. The prisoner must be subject to travel or movement restrictions set by the commissioner limiting the prisoner's travel to times and places directly related to approved employment, education, treatment or such other specific purposes as are approved in advance by the commissioner. [1991, c. 845, §4 (NEW).]

E. The prisoner must be subject to searches of the prisoner's person, residence, papers and effects without a warrant and without probable cause, for items prohibited by law or by the conditions of supervised community confinement or otherwise subject to seizure, upon the request of the commissioner. The commissioner may prohibit the prisoner from residing with anyone who does not consent to a search of the residence to the extent necessary to search the prisoner's person, residence, papers and effects. [1991, c. 845, §4 (NEW).]

F. The prisoner may not possess or use illegal drugs or other illegal substances, may not possess or use alcohol and may not abuse any other legal substance. [1991, c. 845, §4 (NEW).]

G. The prisoner must submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the commissioner. [1991, c. 845, §4 (NEW).]

H. The prisoner must notify any law enforcement officer, if stopped, of the prisoner's status as a prisoner on supervised community confinement and notify the commissioner within 8 hours of any such contact with any law enforcement officer. [1991, c. 845, §4 (NEW).]

I. The prisoner may not violate state or federal criminal law. [1991, c. 845, §4 (NEW).]

J. When required by the commissioner and to the extent that the commissioner determines that the prisoner has the financial resources, the prisoner must pay part or all of the costs of the prisoner's participation in the supervised community confinement program. [1991, c. 845, §4 (NEW).]

[2007, c. 536, §4 (AMD) .]

4. Additional conditions. In addition to the mandatory conditions, the conditions of supervised community confinement that may be imposed on a prisoner at any time include:

A. Any condition that may be imposed as a condition of probation pursuant to Title 17-A, section 1204; and [1991, c. 845, §4 (NEW).]

B. Any condition that would be appropriate for the prisoner and the supervised community confinement program. The conditions imposed may be as stringent or restrictive as, but not more stringent or restrictive than, those that may be constitutionally imposed if the prisoner were actually housed at a maximum security institution. [1991, c. 845, §4 (NEW).]

[1991, c. 845, §4 (NEW) .]

5. Copy of rules. Copies of rules must be provided to prisoners as follows.

A. The commissioner shall provide to any prisoner permitted to participate in the supervised community confinement program under this section a copy of the rules applicable to the program. [1991, c. 845, §4 (NEW).]

B. The prisoner shall attest to the receipt of the copy of the rules. [1991, c. 845, §4 (NEW).]

[1991, c. 845, §4 (NEW) .]

6. Prohibited acts. Prohibited acts under this section are governed as follows.

A. A person 18 years of age or older is guilty of interference with supervised community confinement if that person intentionally or knowingly obstructs, intimidates or otherwise abets any prisoner participating in the supervised community confinement program under this section and intentionally contributes or causes the prisoner to violate any term of supervised community confinement program participation, after having been warned by the commissioner to end the offending activity. [1991, c. 845, §4 (NEW).]

B. Interference with supervised community confinement is a Class D crime. [1991, c. 845, §4 (NEW).]

[1991, c. 845, §4 (NEW).]

7. Investigation of compliance. The commissioner, at any time and in any manner the commissioner determines appropriate, may investigate compliance with the conditions imposed. The means of investigation may include, but are not limited to, the following:

A. Personal contact with the prisoner at the prisoner's residence, place of employment or any other place; [1991, c. 845, §4 (NEW).]

B. Direct inquiry of the prisoner's employer, school or any other person or entity; [1991, c. 845, §4 (NEW).]

C. Criminal, court and police agency investigations; and [1991, c. 845, §4 (NEW).]

D. Credit and other financial inquiries. [1991, c. 845, §4 (NEW).]

[1991, c. 845, §4 (NEW).]

8. Funding. Funds generated pursuant to this section must be deposited into the Supervised Community Confinement Account established by the department, except that where authorized by the department, a person participating in the supervised community confinement program may be required to pay fees directly to a provider of electronic monitoring, drug testing or other services. Funds from this account, which may not lapse, must be used to pay for the costs of the supervised community confinement program.

[1993, c. 503, §1 (AMD).]

9. Probation violation; revocation. If a prisoner on supervised community confinement violates a condition of supervised community confinement imposed on the prisoner and if the violation conduct is also a violation of a condition of probation imposed as part of the sentence the prisoner is serving while on supervised community confinement, a probation officer may file with any court a motion for revocation of probation and the court may revoke probation as specified in Title 17-A, section 1206.

[1997, c. 464, §12 (AMD).]

10. Terminally ill or incapacitated prisoner. With the consent of the prisoner, the commissioner may permit a prisoner committed to the department to be transferred from a correctional facility to supervised community confinement without meeting the requirements of subsection 2, paragraphs B and C if the department's director of medical care has determined that the prisoner has a terminal or severely incapacitating medical condition and that care outside a correctional facility is medically appropriate. Except as set out in this subsection, the prisoner shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by the commissioner. As approved by the commissioner, the prisoner may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services provided by an entity approved by the commissioner and, subject to approval by the commissioner, may live at home while receiving these services. The commissioner may exempt a prisoner transferred to supervised community confinement pursuant to this subsection from any mandatory condition under subsection 3 that the commissioner determines to be inapplicable. The prisoner shall provide any information pertaining to the prisoner's medical condition or care that is requested by the commissioner at any time while the prisoner is on supervised community confinement. If the commissioner determines that the prisoner has failed to fully comply with a request or if at any time the department's director of medical care determines that the prisoner

does not have a terminal or severely incapacitating medical condition or that care outside a correctional facility is not medically appropriate, the commissioner shall revoke the transfer to supervised community confinement.

[2009, c. 391, §16 (AMD) .]

11. Revocation of transfer. The commissioner may revoke a transfer to supervised community confinement at any time for any reason in the commissioner's discretion.

[2009, c. 391, §17 (NEW) .]

SECTION HISTORY

1991, c. 845, §4 (NEW). 1993, c. 170, §1 (AMD). 1993, c. 503, §1 (AMD). 1997, c. 464, §12 (AMD). 2001, c. 141, §§1,2 (AMD). 2003, c. 205, §13 (AMD). 2003, c. 711, §§A21,22 (AMD). 2003, c. 711, §D2 (AFF). 2005, c. 68, §2 (AMD). 2007, c. 240, Pt. ZZZ, §2 (AMD). 2007, c. 536, §4 (AMD). 2009, c. 391, §§16, 17 (AMD).

§3037. PHYSICAL AND MENTAL EXAMINATION

1. Requirement. The commissioner may require a physical and mental examination of any client.

[1991, c. 314, §42 (AMD) .]

2. Examiners. The commissioner shall designate competent examiners.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §42 (AMD).

§3038. ADMINISTRATION OF MEDICATION

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §43 (AMD). 2005, c. 329, §10 (RP).

§3038-A. CARE OF CHILDREN OF COMMITTED OFFENDERS

1. Commitment of child. If a client, at the time of commitment to the custody of the Department of Corrections, is the parent of and is providing exclusive care for any child who might otherwise be left without proper care or guardianship, the judge committing that client shall cause the child to be committed to:

A. A children's home provided by law for the child's care or guardianship; [1983, c. 459, §6 (NEW) .]

B. The care and custody of some relative or proper person willing to assume the care; or [1983, c. 459, §6 (NEW) .]

C. The custody of the Department of Health and Human Services. [1983, c. 459, §6 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

[1991, c. 314, §44 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Controlling statute. Any commitment of a child under this section is subject to Title 22, sections 4006, 4037, 4038, 4061 and 4063.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1989, c. 127, §10 (AMD). 1991, c. 314, §44 (AMD). 2003, c. 689, §B6 (REV).

§3039. CLIENTS' MONEY

When any client confined in a correctional or detention facility receives money from any source, including compensation for work authorized under other sections of Maine law or by a policy of the department, the money must be deposited in the department's general client account or, as provided in subsection 4, in the department's telephone call account. Money deposited in either account must be credited to the client receiving it. [2005, c. 506, §7 (AMD) .]

1. General client account. The commissioner shall adopt rules for use of the general client account. These rules must include a provision allowing a client to remove that client's money from the general client account and place it in any type of investment outside the facility chosen by the client. The commissioner shall keep a record of all money in the general client account and is responsible for safekeeping of the client's money while the client is in the custody of the department and for the delivery of that money to the client, subject to any collections provided for by statute or rule, upon the client's discharge or transfer to supervised community confinement or community reintegration status.

[2005, c. 506, §7 (AMD) .]

2. Interest. Any interest accruing as a result of the deposit of money in the general client account may, after first being used to defray expenses of the account, be expended by the commissioner for the general welfare of clients confined in the department's correctional and detention facilities in accordance with rules adopted by the commissioner.

[2005, c. 506, §7 (AMD) .]

3. Use. During the client's confinement, any client may use that client's money in the general client account by authorizing the commissioner to disburse the money in accordance with the rules governing the general client account.

[2005, c. 506, §7 (AMD) .]

4. Telephone call account. The commissioner may establish a telephone call account for the sole purpose of paying for use of the department's client telephone system and into which money received by clients may be deposited. Money received by a client and clearly designated by the sender for paying for telephone calls must be directly deposited into the telephone call account. In addition, a client may remove the client's money from the general client account and deposit it into the telephone call account. Once deposited into the telephone call account, the client may use the money only for paying for the client's telephone calls. Any money received by a client and not used for paying for the client's telephone calls must be transferred from the telephone call account to the department's general client account at the time of the client's discharge or transfer to supervised community confinement or community reintegration status and is subject to any collections provided for by statute or rule prior to delivery to the client. The commissioner shall keep a record

of all money in the telephone call account and is responsible for safekeeping of the client's money while the client is in the custody of the department and for the transfer of that money to the general client account and delivery to the client as set out in this section.

[2005, c. 506, §7 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§21,59 (RPR). 1991, c. 314, §45 (AMD). 2005, c. 329, §11 (AMD). 2005, c. 506, §7 (AMD).

§3039-A. FAMILY SUPPORT

A prisoner may not participate in an industry program under section 1403, a work program under section 3035 or any other program administered by the department by which a prisoner is able to generate money unless the prisoner consents to pay at least 25% of that money for the support of any dependent child if the parent, legal guardian or legal custodian of the child requests that payment. Upon the written request of a parent, legal guardian or legal custodian, the chief administrative officer of the correctional facility where the prisoner is incarcerated shall collect and disburse to the parent, legal guardian or legal custodian that portion of the prisoner's money to be paid for the support of the dependent child. This section does not apply to any prisoner making payments for the support of a dependent child pursuant to a support order issued by a court or by the Department of Health and Human Services. [1997, c. 358, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

1997, c. 358, §4 (NEW). 2003, c. 689, §B6 (REV).

§3040. CLIENTS' PROPERTY PRESUMED ABANDONED

Any property abandoned or unclaimed by a client in a correctional or detention facility must be disposed of according to Title 33, chapter 41. [2003, c. 20, Pt. T, §32 (AMD).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §46 (AMD). 2003, c. 20, §T32 (AMD).

§3040-A. PROPERTY OF DECEASED CLIENTS

Property remaining in a correctional or detention facility as a result of a client's death is governed as follows. [1991, c. 314, §47 (AMD).]

1. Payment. Except as provided in subsection 4, if any client in the custody of the department dies, and no personal representative of the client's estate is appointed, the chief administrative officer may pay the balance of the deposits in the client's general client account and telephone call account, up to a maximum of \$1,000, to the surviving spouse or next of kin in accordance with Title 18-A, sections 2-101 to 2-114, to the funeral director having any bill outstanding for the burial of the decedent or to any other preferred creditor or creditors who may appear to be entitled thereto, and shall deliver personal property in the chief administrative officer's custody to the surviving spouse or next of kin in accordance with Title 18-A, sections 2-101 to 2-114.

[2013, c. 80, §8 (AMD) .]

2. Time of payment. Payments or delivery pursuant to subsection 1 may not be made until 60 days have elapsed following the date of death of the client.

[1991, c. 314, §47 (AMD) .]

3. Liability of payment. For any payment or delivery made pursuant to subsections 1 and 2, the chief administrative officer or the chief administrative officer's designee acting under this section may not be held liable to the decedent's personal representative thereafter appointed, or to the decedent's heirs, successors or assigns.

[1991, c. 314, §47 (AMD) .]

4. Alternative payment. Notwithstanding subsection 1, upon presentation of an affidavit under Title 18-A, section 3-1201, the chief administrative officer shall pay the balance of any deposit left by a decedent in the department's general client account or telephone call account and deliver the decedent's personal property to the decedent's successor under Title 18-A, sections 3-1201 and 3-1202. The payments under this subsection take precedence over payments under subsection 1 to the extent of the balance of the deposits in the accounts and the personal property remaining in the custody of the chief administrative officer at the time the affidavit is presented.

[2005, c. 506, §9 (AMD) .]

SECTION HISTORY

1983, c. 581, §§22,59 (NEW). 1991, c. 314, §47 (AMD). 1991, c. 824, §A69 (AMD). 2005, c. 506, §§8,9 (AMD). 2013, c. 80, §8 (AMD).

§3041. REDUCTION OF SENTENCE

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§23,59 (RP).

§3042. DISPOSITION OF DETAINERS

1. Notice to prisoner. The commissioner, chief administrative officer or other official having custody of a prisoner serving a term of imprisonment in a correctional facility in this State shall promptly inform the prisoner in writing of:

A. The source and contents of any untried indictment, information or complaint pending in this State against the prisoner of which the commissioner, warden or other official has knowledge; and [1983, c. 459, §6 (NEW).]

B. The prisoner's right to request a final disposition of the untried indictment, information or complaint. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

2. Right to trial. A prisoner serving a term of imprisonment in a correctional facility in this State is entitled to be brought to trial on any untried indictment, information or complaint pending in this State against him within 180 days after giving proper notice in accordance with subsections 3 and 4.

[1983, c. 459, §6 (NEW) .]

3. Proper notice. To constitute proper notice under subsection 2, the prisoner must send to the prosecuting official of the county in which the indictment, information or complaint is pending, and to the appropriate court, the following:

A. Written notice of the place of imprisonment; [1983, c. 459, §6 (NEW).]

B. Written notice of the request for final disposition to be made of the untried indictment, information or complaint; and [1983, c. 459, §6 (NEW).]

C. A certificate of the commissioner, warden or other official having custody of the prisoner stating:

- (1) The term of commitment under which the prisoner is held;
- (2) The time already served on the sentence;
- (3) The time remaining to be served;
- (4) The amount of good time earned;
- (5) The time of parole eligibility of the prisoner; and
- (6) Any decisions of the State Parole Board relating to the prisoner. [1983, c. 459, §6 (NEW) .]

[1983, c. 459, §6 (NEW) .]

4. Manner of giving proper notice. The manner of giving proper notice under subsection 2 is as follows.

A. The prisoner shall give or send the written notice of place of imprisonment and the written notice of request for final disposition to the commissioner, warden or other official having custody of him. [1983, c. 459, §6 (NEW) .]

B. The commissioner, warden or other official having custody of the prisoner shall promptly forward the written notices, together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested. [1983, c. 459, §6 (NEW) .]

[1983, c. 459, §6 (NEW) .]

5. Continuance. For good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

[1987, c. 167, §1 (RPR) .]

6. Time limitation. If the prisoner is not brought to trial on the untried indictment, information or complaint within 180 days after the prisoner gave or sent proper notice under subsection 2:

A. The untried indictment, information or complaint is no longer of any force or effect; [1987, c. 167, §2 (AMD) .]

B. No court has jurisdiction over it; and [1983, c. 459, §6 (NEW) .]

C. The appropriate court shall enter an order dismissing it with prejudice. [1983, c. 459, §6 (NEW) .]

[1987, c. 167, §2 (AMD) .]

7. Effect of escape. If a prisoner escapes from custody after his execution of the request for final disposition, his request is voided.

[1983, c. 459, §6 (NEW) .]

8. Exception. This section does not apply to any person adjudged to be mentally ill.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1987, c. 167, §§1,2 (AMD).

§3043. ALIENS

1. Notification of immigration officer. When a person is admitted or committed to a correctional facility, a county jail or any other state, county, city or private institution which is supported wholly or in part by public funds, the chief administrative officer of the facility, jail or institution shall inquire at once into the nationality of the person and, if it appears that the person is an alien, the chief administrative officer shall notify immediately the United States immigration officer in charge of the district in which the facility, jail or institution is located, of:

A. The date of and the reason for the alien's admission or commitment; [1983, c. 459, §6 (NEW).]

B. The length of time for which the alien is admitted or committed; [1983, c. 459, §6 (NEW).]

C. The country of which the alien is a citizen; and [1983, c. 459, §6 (NEW).]

D. The date on which and the port at which the alien last entered the United States. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

2. Copy of record to immigration officer. Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien to a correctional facility, a county jail or any other state, county, city or private institution which is supported wholly or in part by public funds, the clerk of the court shall furnish without charge a certified copy of:

A. The complaint, information or indictment; [1983, c. 459, §6 (NEW).]

B. The judgment and sentence; and [1983, c. 459, §6 (NEW).]

C. Any other record pertaining to the alien's case. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§3044. ESCAPEES; FUGITIVES; APPREHENSION

1. Escapees. The commissioner shall take all proper measures for, and may, with the approval of the Governor, offer a reward for the apprehension and return of any client in any correctional or detention facility who has escaped from the control of the department.

A. The reward may not exceed \$1,000. [1983, c. 581, §§24, 59 (RPR).]

B. Upon satisfactory proof that the terms of the reward offer have been complied with, the Governor may draw a warrant upon the Treasurer of State for the payment of the reward. [1991, c. 314, §48 (AMD).]

[1991, c. 314, §48 (AMD) .]

2. Fugitives. When there is reasonable cause to believe that a person charged with a crime and unapprehended for it cannot be arrested and secured in the ordinary course of proceedings, the Governor may, upon application in writing of the Attorney General or district attorney for the county in which the crime was committed, and upon terms which he deems expedient and proper, offer a suitable reward for the arrest, return and delivery into custody of the fugitive from justice.

A. The reward may not exceed \$1,000. [1983, c. 581, §§24, 59 (RPR).]

B. Upon satisfactory proof that the terms of the reward offer have been complied with, the Governor may draw his warrant upon the Treasurer of State for the payment of the reward. [1983, c. 581, §§24, 59 (RPR).]

[1983, c. 581, §§24, 59 (RPR) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§24,59 (RPR). 1991, c. 314, §48 (AMD).

§3045. DEATH OF CLIENT

When any client in custody dies, an examination and inquest must be held, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "custody" means confinement in a state correctional or detention facility or when the client is on the way to or from a state correctional or detention facility while in the custody of a state corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed. [2011, c. 420, Pt. D, §5 (AMD); 2011, c. 420, Pt. D, §6 (AFF).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §49 (AMD). 2011, c. 60, §4 (AMD). 2011, c. 420, Pt. D, §5 (AMD). 2011, c. 420, Pt. D, §6 (AFF).

§3046. FUNERAL AND DEATHBED VISITS

(REPEALED)

SECTION HISTORY

1983, c. 581, §§25,59 (NEW). 1991, c. 314, §§50,51 (AMD). 2001, c. 386, §14 (AMD). 2007, c. 536, §5 (RP).

§3046-A. FUNERAL AND DEATHBED VISITS

1. Family member. At the discretion of and under conditions prescribed by the commissioner, a client confined in a correctional or detention facility may attend the funeral of the client's spouse or domestic partner or the client's parent, child, sibling, grandparent or grandchild, whether the relationship is natural, adoptive, foster or through marriage, and may be permitted deathbed visits to any of those persons if the funeral or visit is held within the State.

[2007, c. 536, §6 (NEW) .]

2. Another person. At the discretion of and under conditions prescribed by the commissioner, a client confined in a correctional or detention facility may attend the funeral of or be permitted a deathbed visit to another person if the funeral or visit is held within the State. The commissioner may not delegate this authority.

[2007, c. 536, §6 (NEW) .]

3. Certification of terminal illness. Before a deathbed visit is permitted under this section, terminal illness must be certified to the commissioner by the attending physician.

[2007, c. 536, §6 (NEW) .]

4. Costs. The client, if able, shall pay the cost of transportation under this section and the per diem compensation of the accompanying officers if the officers are required by the commissioner.

[2007, c. 536, §6 (NEW) .]

SECTION HISTORY

2007, c. 536, §6 (NEW).

§3047. DISCHARGE OR PAROLE

When any prisoner sentenced to the department is paroled or discharged, the commissioner: [1991, c. 314, §52 (AMD).]

1. Clothing. Shall ensure that the prisoner is provided with decent clothing;

[1991, c. 314, §52 (AMD) .]

2. Money. May give the prisoner an amount equal to the net salary of a single wage earner with no dependents for 40 hours of work at the state minimum wage less all applicable state and federal deductions provided that any amount in excess of \$50 may not be provided by the General Fund, except that the commissioner may not give money to a prisoner who:

A. Has, within the 6 months prior to the date of parole or discharge, transferred from the department's general client account to any person more than \$500, excluding any money transferred for the support of dependents; or [2005, c. 506, §10 (AMD).]

B. Has, on the date of parole or discharge, more than \$500 in personal assets. [2007, c. 102, §9 (AMD).]

Money received by the prisoner under this subsection is not subject to section 3032, subsection 5-A or 5-B or Title 17-A, section 1330, subsection 2;

[2007, c. 102, §9 (AMD) .]

3. Transportation. Shall furnish transportation to the place where the prisoner was convicted, except that:

A. If the prisoner's home is within the State, transportation must be furnished to the prisoner's home; [1991, c. 314, §52 (AMD).]

B. If the prisoner has secured employment within the State, transportation must be furnished to the place of employment; [1991, c. 314, §52 (AMD).]

C. If the prisoner's home is outside the State, or if the prisoner has secured employment outside the State, transportation must be furnished to the place on the Maine border nearest the place of employment; or [1991, c. 314, §52 (AMD).]

D. If the prisoner requests a reasonable place nearer the place of incarceration than any of the foregoing, transportation must be furnished to that place; or [1991, c. 314, §52 (AMD).]

[1991, c. 314, §52 (AMD) .]

4. Extreme circumstances. May, in extreme circumstances, if the prisoner's home is outside the State, or if the prisoner has secured employment outside the State, furnish transportation to the prisoner's home or place of employment.

[1991, c. 314, §52 (AMD) .]

SECTION HISTORY

1983, c. 581, §§25,59 (NEW). RR 1991, c. 1, §48 (COR). 1991, c. 314, §52 (AMD). 1993, c. 682, §2 (AMD). 2005, c. 506, §10 (AMD). 2007, c. 102, §9 (AMD).

§3048. RELIGIOUS SERVICES

The commissioner shall adopt rules that provide for the accommodation of any prisoner who expresses a desire to practice a religion of the prisoner's choice as long as the practice does not present a threat to the safety, security or orderly management of the facility in which the prisoner is housed. The rules must be consistent with all federal requirements. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2007, c. 546, §1 (NEW).]

SECTION HISTORY

2007, c. 546, §1 (NEW).

§3049. INVOLUNTARY MEDICATION OF PERSON WITH MENTAL ILLNESS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT REPEALED 8/1/17)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 8/1/17)

1. Grounds for involuntary medication. A person with mental illness residing in a mental health unit of a correctional facility that provides intensive mental health care and treatment may be given medication for the mental illness without the consent of the person if, upon application by the chief administrative officer of the facility, the Superior Court of the county in which the correctional facility is located finds by clear and convincing evidence that:

- A. The person is a person with mental illness; [2013, c. 434, §4 (NEW).]
- B. As a result of the mental illness, the person poses a likelihood of serious harm; [2013, c. 434, §4 (NEW).]
- C. The medication has been recommended by the facility's treating psychiatrist as treatment for the person's mental illness; [2013, c. 434, §4 (NEW).]
- D. The recommendation for the medication has been supported by a professional who is qualified to prescribe the medication and who does not provide direct care to the person; [2013, c. 434, §4 (NEW).]
- E. The person lacks the capacity to make an informed decision regarding medication; [2013, c. 434, §4 (NEW).]
- F. The person is unable or unwilling to consent to the recommended medication; [2013, c. 434, §4 (NEW).]
- G. The need for the recommended medication outweighs the risks and side effects; and [2013, c. 434, §4 (NEW).]
- H. The recommended medication is the least intrusive appropriate treatment option. [2013, c. 434, §4 (NEW).]

For purposes of this subsection, "intensive mental health care and treatment" means daily on-site psychiatric treatment services, daily on-site group and individual mental health treatment and other therapeutic programs and 24-hour on-call psychiatric coverage and includes, as authorized in accordance with this section, the ability to order and administer involuntary medication for treatment purposes.

[2013, c. 434, §4 (NEW).]

2. Rights prior to involuntary medication. Except as provided in this section, a person who is the subject of an application for an order permitting involuntary medication pursuant to this section must be provided, before being medicated, a court hearing at which the person has the following rights.

- A. The person is entitled, at least 7 days before the hearing, to written notice of the hearing and a copy of the application for an order permitting involuntary medication, including the specific factual basis for each of the grounds set out in subsection 1. [2013, c. 434, §4 (NEW).]
- B. The person is entitled to be present at the hearing. [2013, c. 434, §4 (NEW).]
- C. The person is entitled to be represented by counsel. [2013, c. 434, §4 (NEW).]
- D. The person is entitled to present evidence, including by calling one or more witnesses. [2013, c. 434, §4 (NEW).]
- E. The person is entitled to cross-examine any witness who testifies at the hearing. [2013, c. 434, §4 (NEW).]
- F. The person is entitled to appeal to the Supreme Judicial Court any order by the Superior Court permitting involuntary medication. [2013, c. 434, §4 (NEW).]

[2013, c. 434, §4 (NEW) .]

3. Court hearing. Except as provided in this section, the following applies to the court hearing.

- A. The Superior Court may, in its discretion, grant a continuation of the hearing for up to 10 days for good cause shown. [2013, c. 434, §4 (NEW).]
- B. The Maine Rules of Evidence apply. [2013, c. 434, §4 (NEW).]
- C. The Supreme Judicial Court may adopt such rules of court procedure as it determines appropriate. [2013, c. 434, §4 (NEW).]
- D. If the person is indigent, costs of counsel and all other costs, including all costs on appeal, must be provided by the Maine Commission on Indigent Legal Services as in other civil cases. [2013, c. 434, §4 (NEW).]
- E. The Superior Court may, in its discretion, subpoena any witness and, if the person is indigent, the witness fees must be provided by the Department of Health and Human Services. [2013, c. 434, §4 (NEW).]
- F. The hearing must be electronically recorded and, if an appeal is brought and the person is indigent, the transcript fee must be provided by the Department of Health and Human Services. [2013, c. 434, §4 (NEW).]
- G. The order and the application for the order, the hearing, the record of the hearing and all notes, exhibits and other evidence are confidential. [2013, c. 434, §4 (NEW).]

[2013, c. 434, §4 (NEW) .]

4. Ex parte order. When there exists an imminent likelihood of serious harm, the Superior Court may enter an ex parte order permitting involuntary medication. An application for the ex parte order must include all the information otherwise required under this section, as well as the specific factual basis for the belief that the likelihood of serious harm is imminent. The ex parte order and the application for the ex parte order, the proceeding, any record of the proceeding and all notes, exhibits and other evidence are confidential. If the court enters an ex parte order permitting involuntary medication, a hearing conforming with the requirements of subsections 2 and 3 must be held within 10 days.

[2013, c. 434, §4 (NEW) .]

5. Court order. If the Superior Court finds by clear and convincing evidence that each of the grounds set out in subsection 1 has been met, the court may grant the application for involuntary medication, as requested or as may be modified based upon the evidence, and may authorize the correctional facility's chief administrative officer to permit qualified health care staff to order and administer medication for treatment of the mental illness, as well as laboratory testing and medication for the monitoring and management of side effects.

[2013, c. 434, §4 (NEW) .]

6. Periodic review. Involuntary medication of a person under this section may continue only with periodic reviews consisting of subsequent hearings conforming with the requirements of subsections 2 and 3 to take place at least once every 120 days.

[2013, c. 434, §4 (NEW) .]

7. Medication by consent. This section does not preclude giving medication for a mental illness when either the person to receive the medication or the person's legal guardian, if any, consents to the medication.

[2013, c. 434, §4 (NEW) .]

8. Repeal. This section is repealed August 1, 2017.

[2013, c. 434, §4 (NEW) .]

SECTION HISTORY

2013, c. 434, §4 (NEW).

Article 3: TRANSFER AND REMOVAL OF COMMITTED OFFENDERS

§3061. TRANSFER TO CORRECTIONAL FACILITIES

1. Transfer. The commissioner may transfer any client from one correctional or detention facility or program, including prerelease centers, work release centers, halfway houses, supervised community confinement or specialized treatment facilities, to another. A juvenile may not be transferred to another facility or program for adult offenders and an adult offender may not be transferred to another facility or program for juveniles, except that an adult offender may be housed in the Long Creek Youth Development Center or the Mountain View Youth Development Center pursuant to section 3816 or 4117 or Title 17-A, section 1259.

[2013, c. 28, §10 (AMD) .]

2. Applicable rules. Any person transferred under this section shall be subject to the general rules of the facility or program to which he is transferred, except that:

A. The term of his original sentence or commitment remains the same unless altered by the court; and

[1983, c. 581, §§26, 59 (RPR).]

B. The person becomes eligible for release and discharge as provided in Title 17-A, section 1254.

[1983, c. 581, §§26, 59 (RPR).]

[1983, c. 581, §§26, 59 (RPR) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§26, 59 (RPR). 1991, c. 314, §53 (AMD). 1991, c. 845, §5 (AMD). 2013, c. 28, §10 (AMD).

§3062. TRANSFER FROM THE PRISON TO A FEDERAL CORRECTIONAL INSTITUTION

1. Requirements. The commissioner may transfer any prisoner sentenced to the department to a federal penal or correctional institution if the United States Bureau of Prisons accepts the commissioner's application for transfer of the prisoner.

[1991, c. 314, §54 (AMD) .]

2. Contract. The commissioner may contract with the Attorney General of the United States, or such officer as the Congress may designate under the United States Code, Title 18, Section 5003 and acts supplementing and amending it, in each individual case for the care, custody, subsistence, education, treatment and training of any person transferred under this section.

A. The contract must provide for the reimbursement of the United States in full for all costs or other expenses involved, the costs and expenses to be paid from the appropriation for the operation of the correctional facility. [1991, c. 314, §55 (AMD).]

B. The chief administrative officer shall affix to the contract a copy of the mittimus or mittimuses under which the prisoner is held. [1991, c. 314, §55 (AMD).]

C. The contract and mittimus or mittimuses are sufficient authority for the United States to hold the prisoner on behalf of the State. [1983, c. 459, §6 (NEW).]

[1991, c. 314, §55 (AMD) .]

3. Effect on prisoner. The rights of transferred prisoners are governed as follows.

A. A prisoner transferred under this section is subject to the terms of his original sentence or sentences as if he were serving the sentence or sentences within the confines of the prison. [1983, c. 459, §6 (NEW) .]

B. Nothing in this section deprives a prisoner transferred under this section of his rights to parole or his rights to legal process in the courts of this State. [1983, c. 459, §6 (NEW) .]

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§27,59 (AMD). 1991, c. 314, §§54,55 (AMD).

§3063. TRANSFER TO JAILS

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§28,59 (RPR). 1991, c. 314, §56 (AMD). 1995, c. 368, §R11 (RPR). 1999, c. 583, §14 (AMD). 2007, c. 653, Pt. A, §31 (RP).

§3063-A. TRANSFER FROM JAILS

(REPEALED)

SECTION HISTORY

1995, c. 368, §R12 (NEW). 1995, c. 647, §6 (AMD). 1997, c. 464, §13 (AMD). 2007, c. 653, Pt. A, §32 (RP).

§3064. TRANSFER FROM THE PRISON TO THE MINIMUM SECURITY UNIT **(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§29,59 (RP).

§3065. TRANSFER FROM THE PRISON TO JAILS **(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§29,59 (RP).

§3066. TRANSFER FROM THE MAINE CORRECTIONAL CENTER **(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§29,59 (RP).

§3067. TRANSFER FROM THE CHARLESTON CORRECTIONAL FACILITY **(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§29,59 (RP).

§3068. TRANSFER FROM JAILS **(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§29,59 (RP).

§3069. HOSPITALIZATION FOR MENTAL ILLNESS

1. Involuntary. When a prisoner of a correctional facility has been determined by a competent medical authority to require inpatient treatment for mental illness, the chief administrative officer of that facility shall make application in accordance with Title 34-B, section 3863.

A. Any person with respect to whom an application and certification under Title 34-B, section 3863 are made may be admitted to either state mental health institute. [1983, c. 459, §6 (NEW).]

B. Except as otherwise specifically provided in this section, Title 34-B, chapter 3, subchapter 4, Article 3 is applicable to the person as if the admission of the person were applied for under Title 34-B, section 3863. [2005, c. 329, §12 (AMD).]

C. A copy of the document by which the person is held in the facility must accompany the application for admission. [1991, c. 314, §57 (AMD).]

D. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, the person must be returned by the appropriate officers of the correctional facility. [2005, c. 329, §12 (AMD).]

E. Admission to a mental health institute under this section has no effect upon a sentence then being served or a commitment then in effect. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law. While the sentence or commitment is in effect, the

person may not receive a privilege, including, but not limited to, a furlough or its equivalent, a funeral or deathbed visit or the use of tobacco, unless the chief administrative officer of the correctional facility approves the receipt of the privilege. [2007, c. 102, §10 (AMD).]

[2007, c. 102, §10 (AMD) .]

2. Voluntary. The chief administrative officer of a correctional or detention facility may permit a person confined in the facility to apply for informal admission to a state mental health institute under Title 34-B, section 3831.

A. Except as otherwise provided in this section, the provisions of law applicable to persons admitted to a state mental health institute under Title 34-B, chapter 3, subchapter IV, Article II, apply to any person confined in a correctional or detention facility who is admitted to a state mental health institute under that section. [1991, c. 314, §57 (AMD).]

B. A copy of the document by which the person is held in the facility must accompany the application for admission. [1991, c. 314, §57 (AMD).]

C. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, the person must be returned by the appropriate officers of the correctional or detention facility. [1991, c. 314, §57 (AMD).]

D. Admission to a mental health institute under this section has no effect upon a sentence then being served or a commitment then in effect. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law. While the sentence or commitment is in effect, the person may not receive a privilege, including, but not limited to, a furlough or its equivalent, a funeral or deathbed visit or the use of tobacco, unless the chief administrative officer of the correctional facility approves the receipt of the privilege. [2007, c. 102, §11 (AMD).]

[2007, c. 102, §11 (AMD) .]

3. Reincarceration planning. For each person hospitalized pursuant to this section, the Department of Health and Human Services, in consultation with the chief administrative officer of the correctional facility and before the person is transferred back to the correctional facility, shall develop a written treatment plan describing the recommended treatment to be provided to the person.

[2001, c. 659, Pt. D, §2 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

4. Review use of seclusion and restraint with prisoners with major mental illness; report.

Beginning October 1, 2003, the Department of Health and Human Services, utilizing its medical directors and forensic psychiatrists, shall review the use of seclusion and restraint with prisoners with major mental illness in all adult correctional facilities. The department and the Department of Health and Human Services shall agree to the design and scope of this review. This review must include, but not be limited to, a case review of the rates of and duration of such practices with prisoners with major mental illness, whether the use of seclusion and restraint is appropriate and whether there is a pattern of restraint and seclusion with any particular prisoners with major mental illness. Beginning December 30, 2004 and annually thereafter, the Department of Health and Human Services shall issue a written report that includes its findings and recommendations for improvements determined to be necessary. That report must be forwarded to the commissioner and to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

[2003, c. 482, Pt. C, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §57 (AMD). 2001, c. 659, §D2 (AMD). 2003, c. 482, §§B1,C1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 329, §12 (AMD). 2007, c. 102, §§ 10, 11 (AMD).

§3069-A. TRANSFER OF JAIL INMATES FOR MENTAL HEALTH SERVICES

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 8/1/17)

(WHOLE SECTION TEXT REPEALED 8/1/17)

1. Eligible inmates. The commissioner may transfer from a jail to a correctional facility an adult inmate who the chief administrative officer of the Riverview Psychiatric Center confirms is eligible for admission to a state mental health institute under Title 34-B, section 3863, but for whom no suitable bed is available, for the purpose of providing to the inmate mental health services in a mental health unit of a correctional facility that provides intensive mental health care and treatment. The commissioner may not transfer pursuant to this section a person who has been found not criminally responsible by reason of insanity. The commissioner may return an inmate transferred pursuant to this subsection back to the sending facility.

For purposes of this subsection, "intensive mental health care and treatment" has the same meaning as in section 3049, subsection 1.

[2013, c. 434, §5 (NEW) .]

2. Evaluation. The commissioner may transfer from a jail to a correctional facility an adult inmate whom the court orders to be examined or further evaluated by the State Forensic Service under Title 15, section 101-D, subsection 1, 2, 3 or 9 if the State Forensic Service determines that the jail where the inmate is incarcerated cannot provide an appropriate setting for the examination but that a mental health unit in a correctional facility can provide an appropriate setting for the examination. The commissioner shall return an inmate transferred pursuant to this subsection back to the sending facility upon the completion of the examination ordered, including any further evaluation ordered, unless the commissioner transferred the inmate for another reason in addition to the examination.

[2013, c. 434, §5 (NEW) .]

3. Disclosure of information. With respect to an adult inmate who has previously been hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make it a prerequisite to a transfer of the inmate under this section that necessary information be disclosed to the department pursuant to Title 34-B, section 1207, subsection 1, paragraph B.

[2013, c. 434, §5 (NEW) .]

4. Application of other laws. All other applicable provisions of law governing inmates, whether detained pending a trial or other court proceeding or sentenced, apply to inmates transferred under this section.

[2013, c. 434, §5 (NEW) .]

5. Discretion. Nothing in this section or in any other provision of law requires the commissioner to transfer an adult inmate from a jail to a correctional facility or precludes the commissioner from transferring an adult inmate from a jail to a correctional facility at any time for any other reason at the commissioner's discretion.

[2013, c. 434, §5 (NEW) .]

6. Repeal. This section is repealed August 1, 2017.

[2013, c. 434, §5 (NEW) .]

SECTION HISTORY

2013, c. 434, §5 (NEW).

§3069-B. PLACEMENT OF DEFENDANTS FOR OBSERVATION

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT REPEALED 8/1/17)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 8/1/17)

1. Acceptance of placement. The commissioner may accept the placement of an adult defendant in a mental health unit of a correctional facility that provides intensive mental health care and treatment for observation whom a court commits to the custody of the Commissioner of Health and Human Services under Title 15, section 101-D, subsection 4 if, in addition to the findings required under Title 15, section 101-D, subsection 4, the court, after hearing, finds by clear and convincing evidence that:

- A. The defendant is a person with mental illness and, as a result of the defendant's mental illness, the defendant poses a likelihood of serious harm to others; [2013, c. 434, §6 (NEW) .]
- B. There is not sufficient security at a state mental health institute to address the likelihood of serious harm; and [2013, c. 434, §6 (NEW) .]
- C. There is no other less restrictive alternative to placement in a mental health unit of a correctional facility. [2013, c. 434, §6 (NEW) .]

The commissioner may not accept the placement of a person who has been found not criminally responsible by reason of insanity.

For purposes of this subsection, "intensive mental health care and treatment" has the same meaning as in section 3049, subsection 1.

[2013, c. 434, §6 (NEW) .]

2. Termination of placement. The commissioner may terminate the placement of a defendant accepted pursuant to this section if the commissioner determines that the likelihood of serious harm posed by the defendant has decreased or the security at a state mental health institute has increased or for any other reason.

[2013, c. 434, §6 (NEW) .]

3. Disclosure of information. With respect to an adult defendant who has previously been hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make it a prerequisite to accepting placement of the defendant under this section that necessary information be disclosed to the department pursuant to Title 34-B, section 1207, subsection 1, paragraph B.

[2013, c. 434, §6 (NEW) .]

4. Application of other laws. All other applicable provisions of law governing defendants committed for observation apply to defendants accepted for placement under this section.

[2013, c. 434, §6 (NEW) .]

5. Discretion. Nothing in this section or in any other provision of law requires the commissioner to accept the placement of a defendant who is committed for observation.

[2013, c. 434, §6 (NEW) .]

6. Repeal. This section is repealed August 1, 2017.

[2013, c. 434, §6 (NEW) .]

SECTION HISTORY

2013, c. 434, §6 (NEW).

§3070. HOSPITALIZATION FOR MENTAL RETARDATION

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §58 (AMD). 1995, c. 395, §G20 (AFF). 1995, c. 395, §G9 (RP).

§3071. REMOVAL FOR DISEASE

1. Dangerous diseases.

[1983, c. 581, §§30, 59 (RP) .]

2. Contagious diseases. If a client in any correctional or detention facility requires medical care outside the facility, the commissioner may:

A. Cause the client to be removed to some suitable place of security where the client will receive all necessary care and medical attention; and [1999, c. 583, §15 (AMD) .]

B. Cause the client to be returned as soon as possible to the facility to be confined according to the sentence, if unexpired. [1999, c. 583, §15 (AMD) .]

[1999, c. 583, §15 (AMD) .]

3. Tuberculosis.

[1991, c. 314, §60 (RP) .]

4. Civil action to recover certain costs. The State may bring a civil action in any court of competent jurisdiction to recover the cost of any medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client under this section. The following assets are not subject to judgment under this subsection:

A. Joint ownership, if any, that the client may have in real property; [1991, c. 314, §61 (AMD) .]

B. Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and [1991, c. 314, §61 (AMD) .]

C. The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family. [1991, c. 314, §61 (AMD) .]

[1991, c. 314, §61 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§30,59 (AMD). 1985, c. 752, §4 (AMD). 1991, c. 314, §§59-61 (AMD). 1999, c. 583, §15 (AMD).

§3072. TREATY; TRANSFER OF NONCITIZENS OF THE UNITED STATES

If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the Governor may, on behalf of the State and subject to the terms of the treaty, authorize the Commissioner of Corrections to consent to the transfer or exchange of offenders and take any other action necessary to initiate the participation of this State in the treaty. [1985, c. 821, §22 (NEW).]

SECTION HISTORY

1985, c. 821, §22 (NEW).

§3073. TRANSPORTATION TO AND FROM COURTS

Notwithstanding any other provision of law, transportation of a prisoner between a correctional facility and a court in connection with the prosecution of the prisoner for a crime committed within a correctional facility is the responsibility of the department, unless the department and the sheriff agree that the sheriff will undertake the responsibility of the transportation at an agreed-upon rate of reimbursement to the county by the department. [2001, c. 228, §2 (NEW).]

SECTION HISTORY

2001, c. 228, §2 (NEW).

Subchapter 2: MAINE STATE PRISON

Article 1: GENERAL PROVISIONS

§3201. MAINTENANCE

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §62 (AMD). 1991, c. 656, (AMD). 1995, c. 502, §F22 (AMD). 1997, c. 752, §35 (AMD). 1999, c. 583, §16 (RP).

§3201-A. ESTABLISHMENT

The Maine State Prison in Knox County is established for the confinement and rehabilitation of persons lawfully in the custody of the department, as provided by law. [1999, c. 583, §17 (NEW).]

SECTION HISTORY

1999, c. 583, §17 (NEW).

Article 2: PRISON OFFICIALS AND PERSONNEL

§3231. WARDEN

1. Chief administrative officer. The chief administrative officer of the Maine State Prison is called the warden.

[1999, c. 583, §18 (RPR) .]

2. Duties. In addition to other duties set out in this Title, the warden shall supervise and control the prisoners, pretrial detainees, employees, grounds, buildings and equipment at the prison.

[1999, c. 583, §18 (RPR) .]

3. Powers. In addition to other powers granted in this Title, the warden has the following powers.

A. The warden may appoint deputy wardens, subject to the Civil Service Law. A deputy warden designated by the warden has the powers, duties, obligations and liabilities of the warden when the warden is absent from the prison location or is unable to perform the duties of the office. [1999, c. 583, §18 (RPR) .]

B. The warden may, with the written approval of the commissioner, contract with the Director of the Federal Bureau of Prisons acting pursuant to the United States Code, Title 18, Section 4002, for the imprisonment, subsistence, care and proper employment of persons convicted of crimes against the United States, and may receive and detain such persons pursuant to the contracts. [1999, c. 583, §18 (RPR) .]

[1999, c. 583, §18 (RPR) .]

4. Powers.

[1999, c. 583, §18 (RP) .]

5.

[1983, c. 581, §§37, 59 (RP) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§31-37, 59 (AMD). 1985, c. 752, §5 (AMD). 1985, c. 785, §B154 (AMD). 1985, c. 821, §23 (AMD). 1991, c. 310, (AMD). 1999, c. 583, §18 (RPR).

§3232. DEPUTY WARDEN

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 785, §B155 (AMD). 1999, c. 583, §19 (RP).

§3233. PRISON EMPLOYEES

1. Duties. Prison employees have the following duties.

A. Prison officers shall perform the services in the managing, superintending and guarding of the prison as prescribed by the rules or as directed by the warden. [1983, c. 459, §6 (NEW) .]

B. If a prisoner at the prison resists the authority of any uniformed or ununiformed officer or refuses to obey his lawful commands, the officer shall immediately enforce obedience. [1983, c. 459, §6 (NEW) .]

[1983, c. 459, §6 (NEW) .]

2. Powers. Prison employees have the following powers.

A. Employees of the prison have the same power as sheriffs in their respective counties to search for and apprehend escapees from the prison, when authorized to do so by the warden. [1983, c. 459, §6 (NEW).]

B. Employees of the prison, when authorized by the warden, may carry weapons inside and outside the prison in connection with their assigned duties or training. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

3. Uniforms. Prison employee uniforms are governed as follows.

A. Employees of the prison may be provided, at the expense of the State, with distinctive uniforms for use when required for the performance of their official duties and which shall remain the property of the State. [1983, c. 459, §6 (NEW).]

B. Employees of the prison may be provided with an equivalent clothing allowance when the private purchase of special clothing is similarly required for the performance of their official duties. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§3234. OVERSEERS

1. Employment. When practicable, the warden shall employ persons having suitable knowledge and skill in the fields of labor and manufacture carried on in the prison to supervise activities in those fields assigned to them by the warden.

[1983, c. 459, §6 (NEW) .]

2. Services. Persons employed under subsection 1 shall perform the services in the managing, supervising and guarding of the prison as prescribed by the prison rules or as directed by the warden.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§3235. PHYSICIAN

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 583, §20 (RP).

§3236. CHAPLAIN

1. Appointment. The warden shall appoint suitable persons as chaplains. Notwithstanding Title 5, section 902, subsection 3, any part-time chaplain position at the Maine State Prison may be a job-sharing position.

[1991, c. 74, (AMD) .]

2. Duties. The prison chaplains shall, in accordance with the rules of the prison:

A. Conduct religious services; [1983, c. 459, §6 (NEW).]

B. Visit the sick; [1983, c. 459, §6 (NEW).]

C. Labor diligently and faithfully for the mental, moral and religious improvement of the prisoners; and [1983, c. 459, §6 (NEW).]

D. Aid the prisoners, when practicable, in obtaining employment after their discharge. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

3. Powers. The chaplains may, with the assent of the warden, establish a religious educational program and may admit persons of proper character from outside the prison to assist in it.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 74, (AMD).

Article 3: PRISONERS

§3261. DELIVERY TO THE PRISON

When a person is convicted and sentenced to the department and is to be transported to the prison from any county: [1999, c. 583, §21 (AMD).]

1. Duties of commissioner. The commissioner shall immediately notify the warden and the sheriff of the county in which the sentencing court is located;

[1983, c. 581, §§38, 59 (RPR) .]

2. Duties of the sheriff. The sheriff of the county in which the sentencing court is located shall:

A. Transport the person to the prison, using a sufficient number of the sheriff's appointed deputies when necessary; and [1999, c. 583, §21 (AMD).]

B. Deliver the person to the officer in charge of the prison between the hours of 8 a.m. and 4 p.m. Monday to Friday, except for holidays, unless prior arrangements for an alternative time have been made with the warden, accompanied by a duly signed warrant of commitment and record, as provided by Title 15, section 1707; [1999, c. 583, §21 (AMD).]

[1999, c. 583, §21 (AMD) .]

3. Duties of the jail keeper. When, during the conveyance of a person to the prison in pursuance of that person's sentence, it is necessary or convenient to lodge the person for safekeeping in a jail until the remainder of the conveyance can be conveniently performed, the keeper of the jail shall:

A. Receive and safely keep and provide for the person, reasonable charges and expenses for this service to be paid from the State Treasury; and [1999, c. 583, §21 (AMD).]

B. Deliver the person to the custody of the deputy employed to convey the person, when that deputy calls for the person; and [1999, c. 583, §21 (AMD).]

[1999, c. 583, §21 (AMD) .]

4. Duties of the warden. The warden shall:

A. File the record, as provided by Title 15, section 1707 in the warden's office. [2009, c. 391, §18 (AMD).]

B. [2009, c. 391, §18 (RP).]

[2009, c. 391, §18 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§38,59 (RPR). 1993, c. 337, §1 (AMD). 1999, c. 583, §21 (AMD). 2009, c. 391, §18 (AMD).

§3262. RECEIPT OF UNITED STATES PRISONERS *(REPEALED)*

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 67, §2 (RP).

§3263. SENTENCE DURATION *(REPEALED)*

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 821, §24 (RP).

§3264. CONDITIONS OF IMPRISONMENT

Prisoners in the prison shall work at tasks normal to the maintenance, service, industrial, agricultural and other activities of the prison. [1999, c. 583, §22 (AMD).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 583, §22 (AMD).

§3265. DISCIPLINARY ACTION *(REPEALED)*

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 583, §23 (RP).

§3266. PRISONER EMPLOYMENT AND TRAINING

1. Minimum security unit. The warden may establish a vocational training program at the minimum security unit to provide prisoners skills designed to assist in the acquisition and retention of employment following parole or discharge. The warden may employ prisoners at the minimum security unit in work involving public restitution.

[1995, c. 502, Pt. F, §23 (AMD) .]

2. Leased facilities.

[1999, c. 583, §24 (RP) .]

3. Effect on sentences.

[1999, c. 583, §24 (RP) .]

4. Rules.

[1999, c. 583, §24 (RP) .]

5. Escape. Prisoners who escape from the Maine State Prison minimum security unit are guilty of escape as if the escape were from the confines of the prison and are punishable in accordance with Title 17-A, section 755.

[1999, c. 583, §25 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1995, c. 502, §F23 (AMD). 1999, c. 583, §§24,25 (AMD).

§3267. FUNERALS AND DEATHBED VISITS

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§39,59 (RP).

§3268. DISCHARGE OR PAROLE

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§39,59 (RP).

Subchapter 3: MAINE CORRECTIONAL CENTER

§3401. ESTABLISHMENT

The Maine Correctional Center in South Windham is established for the confinement and rehabilitation of persons, male and female, lawfully in the custody of the department, as provided by law. [1995, c. 502, Pt. F, §24 (RPR).]

1. Men.

[1995, c. 502, Pt. F, §24 (RP) .]

2. Women.

[1995, c. 502, Pt. F, §24 (RP) .]

3. Adult pretrial detainees.

[1995, c. 502, Pt. F, §24 (RP) .]

4. Juvenile pretrial detainees.

[1995, c. 502, Pt. F, §24 (RP) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§40,59 (AMD). 1983, c. 816, §A41 (AMD). 1995, c. 502, §F24 (RPR).

§3402. WARDEN

1. Chief administrative officer. The chief administrative officer of the Maine Correctional Center is called the warden.

[2013, c. 508, §1 (AMD) .]

2. Duties. In addition to other duties set out in this Title, the warden shall supervise and control the prisoners, pretrial detainees, employees, grounds, buildings and equipment at the center.

[2013, c. 508, §1 (AMD) .]

3. Powers. In addition to other powers granted in this Title, the warden has the following powers.

A. The warden may appoint deputy wardens, subject to the Civil Service Law. A deputy warden designated by the warden has the powers, duties, obligations and liabilities of the warden when the warden is absent from the center location or is unable to perform the duties of the office. [2013, c. 508, §1 (AMD) .]

B. The warden may, with the written approval of the commissioner, contract with the Director of the Federal Bureau of Prisons acting pursuant to the United States Code, Title 18, Section 4002, for the imprisonment, subsistence, care and proper employment of persons convicted of crimes against the United States, and may receive and detain such persons pursuant to the contracts. [2013, c. 508, §1 (AMD) .]

[2013, c. 508, §1 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 785, §B156 (AMD). 2013, c. 508, §1 (AMD).

§3403. PRISONERS GENERALLY

1. Conditions of confinement. Conditions of confinement of prisoners are governed as follows.

A. The warden shall detain and confine all persons committed to the department in accordance with the sentences of the courts and with the rules of the department. [2013, c. 508, §2 (AMD) .]

B. The warden shall provide for the safekeeping or employment of persons committed to the department in order to teach them a useful trade or profession and to improve their mental and moral condition, which may include work involving public restitution. [2013, c. 508, §2 (AMD) .]

[2013, c. 508, §2 (AMD) .]

2. Housing. The warden shall maintain separate housing facilities for men and women.

[2013, c. 508, §2 (AMD) .]

3. Convicted boundover juveniles.

[1995, c. 502, Pt. F, §26 (RP) .]

4. Industries program.

[1985, c. 821, §25 (RP) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§41,59 (AMD). 1983, c. 816, §A42 (AMD). 1985, c. 821, §25 (AMD). 1991, c. 314, §63 (AMD). 1995, c. 502, §§F25,26 (AMD). 2013, c. 508, §2 (AMD).

§3404. PREGNANT WOMEN

If any woman is, at the time of her commitment to the center, pregnant with a child which will be born after her commitment, the custody of the child, at the instance of the commissioner, shall be determined in accordance with Title 22, chapter 1071. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§3405. MAINE CORRECTIONAL CENTER EMPLOYEES

1. Powers. Employees of the center:

A. Have the same power as sheriffs in their respective counties to search for and apprehend escapees from the center when authorized to do so by the warden; and [2013, c. 508, §3 (AMD).]

B. May carry weapons and other security equipment when authorized by the warden inside and outside the center in connection with their assigned duties or training. [2013, c. 508, §3 (AMD).]

[2013, c. 508, §3 (AMD) .]

2. Uniforms. Maine Correctional Center employee uniforms are governed as follows.

A. Employees of the center may be provided, at the expense of the State, with distinctive uniforms for use when required for the performance of their official duties and which shall remain the property of the State. [1983, c. 459, §6 (NEW).]

B. Employees of the center may be provided with an equivalent clothing allowance when the private purchase of special clothing is similarly required for the performance of their official duties. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§42,59 (AMD). 2013, c. 508, §3 (AMD).

§3406. LAND GRANTS TO THE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

The following lands of the former Women's Correctional Center at Skowhegan are granted to the divisions of the Department of Agriculture, Conservation and Forestry as follows. [1983, c. 459, §6 (NEW); 2011, c. 657, Pt. W, §§5, 7 (REV).]

1. Land grant to Bureau of Parks and Lands. All of the open land and timberland north of Norridgewock Avenue, excluding the land immediately adjacent to the institutional buildings, is transferred to the Bureau of Parks and Lands, which shall actively manage the timberlands as a working forest.

[1983, c. 459, §6 (NEW); 1995, c. 502, Pt. E, §30 (AMD); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §24 (REV) .]

2. Land grant to Bureau of Parks and Lands. All the land lying between Norridgewock Avenue and the Kennebec River, with the exception of the sewerage treatment plant and access thereto, is transferred to the Bureau of Parks and Lands to be managed by the division.

[1983, c. 459, §6 (NEW); 1995, c. 502, Pt. E, §30 (AMD); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §24 (REV) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1995, c. 502, Pt. E, §30 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV). 2013, c. 405, Pt. A, §24 (REV).

§3407. DELIVERY TO THE CENTER

When a person is convicted and sentenced to the department and is to be transported to the center from any county: [1983, c. 581, §§43, 59 (NEW).]

1. Duties of commissioner. The commissioner shall immediately notify the warden and the sheriff of the county in which the sentencing court is located;

[2013, c. 508, §4 (AMD) .]

2. Duties of the sheriff. The sheriff of the county in which the sentencing court is located shall:

A. Transport the person to the center, using a sufficient number of the sheriff's appointed deputies when necessary; and [1999, c. 583, §26 (AMD).]

B. Deliver the person to the officer in charge of the center between the hours of 8 a.m. and 4 p.m. Monday to Friday, except for holidays, unless prior arrangements are made and approved by the warden, accompanied by a duly signed warrant of commitment and record, as provided by Title 15, section 1707; [2013, c. 508, §5 (AMD).]

[2013, c. 508, §5 (AMD) .]

3. Duties of the jail keeper. When, during the conveyance of a person to the center pursuant to the person's sentence, it is necessary or convenient to lodge the person for safekeeping in a jail until the remainder of the conveyance can be conveniently performed, the keeper of the jail shall:

A. Receive and safely keep and provide for the person reasonable charges and expenses for this service to be paid from the State Treasury; and [1999, c. 583, §26 (AMD).]

B. Deliver the person to the custody of the deputy employed to convey the person, when that deputy calls for the person; and [1999, c. 583, §26 (AMD).]

[1999, c. 583, §26 (AMD) .]

4. Duties of the warden. The warden shall:

A. File the record, as provided by Title 15, section 1707, in the warden's office. [2013, c. 508, §6 (AMD).]

B. [2009, c. 391, §19 (RP).]

[2013, c. 508, §6 (AMD) .]

SECTION HISTORY

1983, c. 581, §§43, 59 (NEW). 1993, c. 337, §2 (AMD). 1999, c. 583, §26 (AMD). 2009, c. 391, §19 (AMD). 2013, c. 508, §§4-6 (AMD).

Subchapter 4: CHARLESTON CORRECTIONAL FACILITY

§3601. ESTABLISHMENT

There is established the Charleston Correctional Facility located at Charleston for the confinement and rehabilitation of persons who have been duly convicted and sentenced to the Department of Corrections. [1983, c. 581, §§ 44, 59 (RPR).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§44,59 (RPR).

§3602. PURPOSES

The purposes of the Charleston Correctional Facility include vocational and academic education, rehabilitative programs including work release and work involving public restitution. [1999, c. 583, §27 (AMD).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 583, §27 (AMD).

§3603. DIRECTOR

1. Chief administrative officer. The chief administrative officer of the Charleston Correctional Facility is called the director and is responsible to the commissioner.

[1983, c. 459, §6 (NEW) .]

2. Duties. In addition to other duties set out in this Title, the director has the following duties.

A. The director shall exercise proper supervision over the employees, grounds, buildings and equipment at the Charleston Correctional Facility. [1983, c. 459, §6 (NEW).]

B. The director shall supervise and control the prisoners at the Charleston Correctional Facility in accordance with departmental rules. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

3. Powers. In addition to other powers granted in this Title, the director may appoint one assistant director, subject to the Civil Service Law, and the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform his duties.

[1985, c. 785, Pt. B, §157 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 785, §B157 (AMD).

§3604. PRISONERS GENERALLY

1. Evaluation. Before assignment to the Charleston Correctional Facility, prisoners must be evaluated for security status, program needs and emotional stability by the classification process approved by the Commissioner of Corrections.

[1989, c. 127, §11 (AMD) .]

2. Transferred prisoners. All prisoners transferred to the Charleston Correctional Facility shall be detained and confined in accordance with the sentences of the court and the rules of the department.

[1983, c. 459, §6 (NEW) .]

3. Education. The director shall maintain suitable courses for academic and career and technical education of the prisoners.

A. The director shall maintain necessary equipment and employ suitable qualified instructors as necessary to carry out the objectives of the facility's programs. [1983, c. 459, §6 (NEW).]

B. Before employing instructors in career and technical education, the director shall obtain the approval of the Department of Education. [1989, c. 700, Pt. A, §161 (AMD); 2005, c. 397, Pt. D, §3 (REV).]

[1989, c. 700, Pt. A, §161 (AMD); 2005, c. 397, Pt. D, §3 (REV) .]

4. Employment. The commissioner may authorize the employment of prisoners of the Charleston Correctional Facility on public works with any department, agency or entity of the State, county or local government and may authorize the use of prisoners to provide assistance in the improvement of property owned by nonprofit organizations.

A. The commissioner shall promulgate such rules as he deems proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and departmental employees. [1983, c. 459, §6 (NEW).]

B. The purpose of the employment authorized in this subsection is to provide training to the prisoner and to be a form of public restitution for the crime or crimes committed by the prisoner. [1983, c. 459, §6 (NEW).]

C. The prisoners employed under this subsection may not be compensated monetarily for the work performed. [1983, c. 459, §6 (NEW).]

D. The commissioner may request that nonprofit organizations pay for the transportation of the prisoners and pay the per diem compensation of correctional officers or instructors who must accompany the prisoners or oversee the work to be performed. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW) .]

5. Escape. Any prisoner who escapes from the facility, or from any assignment beyond the grounds of the facility, is guilty of escape under Title 17-A, section 755.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1989, c. 127, §11 (AMD). 1989, c. 700, §A161 (AMD). 2005, c. 397, §D3 (REV).

§3605. CHARLESTON CORRECTIONAL FACILITY EMPLOYEES

Employees of the Charleston Correctional Facility have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the director. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

**Subchapter 5: SOUTHERN MAINE JUVENILE
FACILITY HEADING: PL 1999, C. 583, §28 (RPR)**

§3801. ESTABLISHMENT

The State shall maintain the Long Creek Youth Development Center, referred to in this subchapter as the "facility," located at South Portland. [1999, c. 583, §29 (AMD); 2001, c. 439, Pt. G, §6 (AMD).]

1. Coeducational. The facility must be coeducational.

[1999, c. 583, §30 (AMD) .]

2. Separate housing. The facility must fully separate the housing facilities for boys and girls.

[1999, c. 583, §30 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 401, §J4 (AMD). 1999, c. 583, §§29,30 (AMD). 2001, c. 439, §G6 (AMD).

§3802. PURPOSES

1. Statement. The purposes of the Long Creek Youth Development Center are:

A. To detain juveniles pending a court proceeding; [2003, c. 410, §13 (AMD).]

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318-A; [2011, c. 282, §6 (AMD).]

C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F; [1999, c. 463, §1 (AMD).]

D. To protect the public from dangerous juveniles; [1999, c. 624, Pt. B, §22 (AMD).]

E. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 1, paragraph H; [2005, c. 507, §20 (AMD).]

F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D; [2007, c. 196, §7 (AMD).]

G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115; [2007, c. 686, §2 (AMD).]

H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7; and [2007, c. 686, §3 (AMD).]

I. To confine juveniles committed to a juvenile correctional facility pursuant to Title 17-A, section 1259. [2007, c. 686, §4 (NEW).]

[2011, c. 282, §6 (AMD) .]

2. Accomplishment. To accomplish the purposes set out in subsection 1, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion as they are related to human relations and personality development must be employed. Security measures, whether in the form of physically restrictive construction or intensive staff supervision, when appropriate, may be taken to accomplish these purposes.

[1991, c. 311, §1 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 311, §1 (AMD). 1995, c. 502, §§F27,28 (AMD). 1997, c. 752, §§36,37 (AMD). 1999, c. 401, §J4 (AMD). 1999, c. 463, §§1-3 (AMD). 1999, c. 624, §§B22-24 (AMD). 2001, c. 439, §G6 (AMD). 2003, c. 410, §13 (AMD). 2005, c. 328, §§17-19 (AMD). 2005, c. 507, §§20,21 (AMD). 2007, c. 196, §7 (AMD). 2007, c. 686, §§2-4 (AMD). 2011, c. 282, §6 (AMD).

§3803. SUPERINTENDENT

The chief administrative officer of the Long Creek Youth Development Center is called the superintendent. [1983, c. 459, §6 (NEW); 2001, c. 439, Pt. G, §6 (AMD).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 401, §J4 (AMD). 2001, c. 439, §G6 (AMD).

§3804. SUPERINTENDENT'S POWERS

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§45,59 (RP).

§3804-A. SUPERINTENDENT'S APPOINTMENT POWERS

The superintendent may appoint 2 assistant superintendents, subject to the Civil Service Law. [1985, c. 785, Pt. B, §158 (AMD).]

1. Assistant superintendent. An assistant superintendent designated by the superintendent has the powers, duties, obligations and liabilities of the superintendent when the superintendent is absent from the center or unable to perform the duties of the office.

[1983, c. 581, §§ 46 and 59 (NEW) .]

2. Designee. If there are no assistant superintendents, another employee designated by the superintendent has the powers, duties, obligations and liabilities of the superintendent in the circumstances described in subsection 1.

[1983, c. 581, §§ 46 and 59 (NEW) .]

SECTION HISTORY

1983, c. 581, §§46,59 (NEW). 1985, c. 785, §B158 (AMD).

§3805. COMMITMENT

1. Eligibility. Only a juvenile, as defined in Title 15, section 3003, subsection 14, who is 11 years of age or older at the time of commitment may be committed to the facility pursuant to this subchapter and Title 15, Part 6.

[1999, c. 583, §31 (AMD) .]

2. Limitations. A person may not be detained or confined in or committed to the facility if, upon petition by the commissioner or the commissioner's designee and after hearing, the court finds by a preponderance of the evidence that the person is more appropriately a subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services. Prior to the hearing, the court shall provide notice of the hearing in writing or orally to the juvenile, the juvenile's parents, the juvenile's guardian or legal custodian, the attorney for the State and the Department of Health and Human Services.

[2007, c. 536, §7 (AMD) .]

3. Certification. When a person is detained or confined in or committed to the facility, the court making the detention, confinement or commitment shall certify on the mittimus the person's birthplace, parentage and legal residence.

[2005, c. 507, §23 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§47,59 (AMD). 1991, c. 311, §2 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1999, c. 583, §31 (AMD). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV). 2003, c. 706, §A10 (AMD). 2005, c. 507, §§22,23 (AMD). 2007, c. 536, §7 (AMD).

§3806. FEDERAL JUVENILE OFFENDERS

The commissioner may contract with the Attorney General of the United States for the confinement and support in the Long Creek Youth Development Center of juvenile offenders against the laws of the United States in accordance with the United States Code, Title 18, Sections 706 and 707. [1983, c. 459, §6 (NEW); 2001, c. 439, Pt. G, §6 (AMD).]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1999, c. 401, §J4 (AMD). 2001, c. 439, §G6 (AMD).

§3807. HUMAN SERVICES' CUSTODY

1. Suspension. When the custody of a child at the time of commitment is in the Department of Health and Human Services, that custody shall be temporarily suspended while the child is in the Long Creek Youth Development Center.

[1983, c. 459, §6 (NEW); 2001, c. 439, Pt. G, §6 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Reversion. Upon discharge or placement on community reintegration status from the Long Creek Youth Development Center, the custody of the child reverts to the Department of Health and Human Services, if the child is still under 18 years of age.

[2003, c. 410, §14 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§48,59 (AMD). 1999, c. 401, §J4 (AMD). 2001, c. 439, §G6 (AMD). 2003, c. 410, §14 (AMD). 2003, c. 689, §B6 (REV).

§3808. OVERCROWDING

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§49,59 (RP).

§3809. OBSERVATION

1. Generally. When the behavior of a juvenile residing at the Long Creek Youth Development Center presents a high likelihood of imminent harm to that juvenile or to others, presents a substantial and imminent threat of destruction of property or demonstrates a proclivity to be absent from the facility without leave as evidenced by a stated intention to escape from the facility or by a recent attempted or actual escape from any detention or correctional facility, the juvenile may be placed under observation if the juvenile demonstrates that anything less restrictive would be ineffectual for the control of the juvenile's behavior.

[1991, c. 314, §64 (RPR); 2001, c. 439, Pt. G, §6 (AMD) .]

2. Conditions. Placing a juvenile under observation is subject to the following conditions.

A. Placement under observation must first be approved by the superintendent. [1991, c. 314, §64 (RPR) .]

B. The conditions under which a juvenile is placed under observation must conform with all applicable federal and state standards relating to the health and safety of clients in correctional facilities. [1991, c. 314, §64 (RPR) .]

C. Placement under observation may not exceed the period of time necessary to alleviate and prevent the reoccurrence of the behavior described in subsection 1 and it may not be used as punishment. [1991, c. 314, §64 (RPR) .]

D. When placement under observation exceeds 12 hours, the superintendent shall direct the facility physician or a member of the facility medical staff to visit the juvenile immediately and at least once in each succeeding 24-hour period the juvenile remains under observation to examine the juvenile's state of health.

(1) The superintendent shall give full consideration to recommendations of the physician or medical staff member concerning the juvenile's dietary needs and the conditions of the juvenile's confinement required to maintain the juvenile's health. If the recommendations of the physician or medical staff member are not carried out, the superintendent shall immediately convey the reasons and circumstances for this decision to the commissioner for review and final disposition.

(2) Placement under observation must be discontinued if the superintendent on the advice of the physician determines that placement under observation is harmful to the mental or physical health of the juvenile, except that placement under observation may be continued if the behavior of the juvenile presents a high likelihood of imminent physical harm to that juvenile or others and there

is no less restrictive setting in which that juvenile's safety or that of others can be ensured. If placement under observation is continued, the physician or a member of the medical staff shall visit the juvenile at least once every 12 hours. [1991, c. 314, §64 (RPR).]

E. When placement under observation exceeds 24 hours, the superintendent shall direct appropriate facility staff to develop a plan for the further care of the juvenile. The plan must be revised as needed to meet the changing needs of the juvenile. [1991, c. 314, §64 (RPR).]

F. Placement under observation may not exceed 72 hours without the commissioner's approval, which must:

- (1) Be in writing;
- (2) State the reasons for that approval; and
- (3) Be kept on file. [1991, c. 314, §64 (RPR).]

G. If the recommendations of the physician or medical staff member regarding the juvenile's dietary or other health needs while under observation are not carried out, the superintendent shall send a written justification to the commissioner. [1991, c. 314, §64 (RPR).]

H. A juvenile held under observation must be under sight and sound supervision by facility staff, which must be constant if necessary to prevent imminent harm to the juvenile. [1995, c. 163, §1 (AMD).]

[1995, c. 163, §1 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§50,59 (AMD). 1991, c. 314, §64 (RPR). 1995, c. 163, §1 (AMD). 1999, c. 401, §J4 (AMD). 2001, c. 439, §G6 (AMD).

§3809-A. COMMISSIONER'S GUARDIANSHIP POWERS

1. Juvenile client. The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to person, allowable property that the juvenile client has at the Long Creek Youth Development Center, earnings that the juvenile client receives during the juvenile client's stay at the Long Creek Youth Development Center and the rehabilitation of every juvenile client. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner, staff and rules of the facility until the expiration of the period of commitment or until discharge from the facility.

[1999, c. 583, §32 (AMD); 2001, c. 439, Pt. G, §6 (AMD) .]

2. Juvenile detainee. The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner, staff and rules of the facility until release from the facility.

[1999, c. 583, §32 (AMD) .]

3. Psychiatric hospitalization. The commissioner has all the power over a juvenile client or juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary psychiatric hospitalization, including hospitalization in a nonstate mental health institution or hospital for the mentally ill. If a juvenile client or juvenile detainee is or becomes 18 years of age while still under commitment or while still detained, the statutory guardianship of the commissioner over the juvenile client or juvenile detainee

terminates, but the juvenile client or juvenile detainee remains subject to the control of the commissioner and staff and rules of the facility until the expiration of the period of commitment or until release or discharge from the facility. Nothing in this subsection may be construed to override the requirement to make application for psychiatric hospitalization in accordance with Title 34-B, section 3863, unless hospitalization is made with the juvenile client's or juvenile detainee's consent in accordance with Title 34-B, section 3831. If placement in a licensed residential care facility providing a mental health treatment program is an appropriate alternative to psychiatric hospitalization, that placement may be made by the commissioner with the juvenile client's or juvenile detainee's consent.

[2005, c. 328, §20 (AMD) .]

SECTION HISTORY

1983, c. 581, §§51,59 (NEW). 1997, c. 752, §38 (RPR). 1999, c. 401, §J4 (AMD). 1999, c. 510, §5 (AMD). 1999, c. 583, §32 (AMD). 2001, c. 439, §G6 (AMD). 2001, c. 517, §1 (AMD). 2003, c. 410, §15 (AMD). 2003, c. 706, §A11 (AMD). 2005, c. 328, §20 (AMD).

§3810. COMMUNITY REINTEGRATION STATUS

1. Commissioner's powers. During a juvenile client's commitment to the facility, the commissioner may, at the commissioner's discretion:

A. Keep the juvenile client at the facility; or [1999, c. 583, §33 (AMD) .]

B. Place the juvenile client on community reintegration status for a period not exceeding the term of the juvenile's commitment. [2003, c. 410, §16 (AMD) .]

[2003, c. 410, §16 (AMD) .]

2. Reports. As often as the commissioner requires, the person or agency caring for the juvenile client while on community reintegration status shall report to the commissioner:

A. The progress and behavior of the juvenile client, whether or not the juvenile client remains under the care of the person or agency; and [1983, c. 459, §6 (NEW) .]

B. If the juvenile client is not under the care of the person or agency, where the client is. [1983, c. 459, §6 (NEW) .]

[2003, c. 410, §16 (AMD) .]

3. Center services. The commissioner shall provide community reintegration services to juvenile clients.

[2003, c. 410, §16 (AMD) .]

4. Cancellation. If the commissioner is satisfied at any time that the welfare of the juvenile client will be promoted by return to the facility, the commissioner may cancel the community reintegration status and resume charge of the client with the same powers as before the placement on community reintegration status was made.

[2003, c. 410, §16 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§52,59 (AMD). 1989, c. 591, §2 (AMD). 1997, c. 464, §14 (AMD). 1999, c. 583, §§33,34 (AMD). 2003, c. 410, §16 (AMD).

§3811. RETURN TO FACILITY

When a juvenile client who has been placed on community reintegration status, who has been granted a furlough or work or education release or who has been absent from the facility without leave is taken into custody for the purpose of return to the facility by an officer or employee of the facility, at the direction of the commissioner, or by a law enforcement officer, at the request of the commissioner, and because of the juvenile client's distance from the facility at the time of being taken into custody, it becomes necessary to detain the client overnight: [2003, c. 410, §17 (AMD).]

1. Temporary detention. The juvenile client may be temporarily detained in a county jail; and

[1983, c. 459, §6 (NEW) .]

2. Return. The juvenile client must be returned to the facility on the day after being taken into custody, except that, if traveling conditions are unsafe, the client must be returned to the facility at the earliest possible time.

[1999, c. 583, §35 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§53,59 (AMD). 1997, c. 464, §15 (AMD). 1999, c. 583, §35 (AMD). 2003, c. 410, §17 (AMD).

§3812. DISCHARGE

1. Duty. The superintendent shall cause a juvenile client to be discharged from the facility:

A. When the client becomes 21 years of age or otherwise reaches the end of the period of the Juvenile Court's commitment. [1995, c. 502, Pt. F, §29 (AMD).]

B. [1995, c. 502, Pt. F, §29 (RP).]

[1999, c. 583, §36 (AMD) .]

2. Power. The superintendent may cause a juvenile client to be discharged from the facility when the superintendent determines that discharge is in the best interest of the client or that the client has benefited optimally from the services and facilities of the facility.

[1999, c. 583, §36 (AMD) .]

SECTION HISTORY

1983, c. 459, §6 (NEW). 1995, c. 502, §F29 (AMD). 1999, c. 583, §36 (AMD).

§3813. POWER OF FACILITY EMPLOYEES

The Long Creek Youth Development Center employees have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the superintendent. [1999, c. 583, §37 (AMD); 2001, c. 439, Pt. G, §6 (AMD).]

SECTION HISTORY

1987, c. 585, (NEW). 1999, c. 401, §J4 (AMD). 1999, c. 583, §37 (AMD). 2001, c. 439, §G6 (AMD).

§3814. TRANSPORTATION

All court-ordered and court-related transportation of juvenile detainees to and from the Long Creek Youth Development Center is the responsibility of the sheriff of the county in which the court is located. [1991, c. 314, §65 (NEW); 2001, c. 439, Pt. G, §6 (AMD).]

SECTION HISTORY

1991, c. 314, §65 (NEW). 1999, c. 401, §J4 (AMD). 2001, c. 439, §G6 (AMD).

§3815. ARTHUR R. GOULD SCHOOL

1. Purpose. The Arthur R. Gould School, located at the Long Creek Youth Development Center, is devoted to the education and instruction of persons residing at the facility.

[1999, c. 583, §38 (AMD); 2001, c. 439, Pt. G, §6 (AMD) .]

2. Responsibility for maintaining school. The State, through the Department of Corrections, has the responsibility and expense of maintaining the school in compliance with all elementary and secondary state education requirements for public schools and private schools approved for tuition purposes established in Title 20-A.

[1991, c. 764, §2 (NEW) .]

3. School privileges. A person residing at the Long Creek Youth Development Center is eligible to attend the Arthur R. Gould School and receive education, career and technical education, special education and alternative education services in accordance with all state and federal requirements.

[1991, c. 764, §2 (NEW); 2005, c. 397, Pt. D, §3 (REV) .]

4. Policy review council.

[1997, c. 752, §39 (RP) .]

SECTION HISTORY

1991, c. 764, §2 (NEW). 1997, c. 752, §39 (AMD). 1999, c. 401, §J4 (AMD). 1999, c. 583, §38 (AMD). 2001, c. 439, §G6 (AMD). 2005, c. 397, §D3 (REV).

§3816. YOUNG ADULT OFFENDERS

The commissioner may confine adults sentenced and committed to the custody of the department who have not attained 26 years of age in the Long Creek Youth Development Center as long as the housing facilities for adult offenders are fully separated from the housing facilities for juvenile clients and the commissioner maintains at all times full compliance with mandatory sight and sound separation standards established by federal law. All provisions of this Title that are applicable to prisoners apply to adult offenders confined in the Long Creek Youth Development Center as if they were confined in a correctional facility housing only adults. [2013, c. 28, §11 (NEW).]

SECTION HISTORY

2013, c. 28, §11 (NEW).

Subchapter 6: DOWNEAST CORRECTIONAL FACILITY

§3901. ESTABLISHMENT

There is established the Downeast Correctional Facility located in Washington County for the confinement and rehabilitation of persons who have been duly sentenced and committed to the Department of Corrections. [1997, c. 752, §40 (AMD).]

SECTION HISTORY

1983, c. 861, §1 (NEW). 1997, c. 752, §40 (AMD).

§3902. PURPOSES

The purposes of the Downeast Correctional Facility include vocational and academic education and work which may involve public restitution. [1983, c. 861, §1 (NEW).]

SECTION HISTORY

1983, c. 861, §1 (NEW).

§3903. DIRECTOR

1. Chief administrative officer. The chief administrative officer of the Downeast Correctional Facility is called the director and is responsible to the commissioner.

[1983, c. 861, §1 (NEW) .]

2. Duties. In addition to other duties set out in this Title, the director has the following duties.

A. The director shall exercise proper supervision over the employees, grounds, buildings and equipment at the Downeast Correctional Facility. [1983, c. 861, §1 (NEW).]

B. The director shall supervise and control the prisoners at the Downeast Correctional Facility in accordance with departmental rules. [1983, c. 861, §1 (NEW).]

[1983, c. 861, §1 (NEW) .]

3. Powers. In addition to other powers granted in this Title, the director may appoint one assistant director, subject to the Civil Service Law, and the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform his duties.

[1985, c. 785, Pt. B, §159 (AMD) .]

SECTION HISTORY

1983, c. 861, §1 (NEW). 1985, c. 785, §B159 (AMD).

§3904. PRISONERS GENERALLY

1. Confinement. All prisoners at the Downeast Correctional Facility shall be detained and confined in accordance with the sentences of the court and the rules of the department.

[1983, c. 861, §1 (NEW) .]

2. Education. The director shall maintain suitable courses for academic and career and technical education of the prisoners. The director shall maintain necessary equipment and employ suitable qualified instructors as necessary to carry out the objectives of the facility's programs.

[1983, c. 861, §1 (NEW); 2005, c. 397, Pt. D, §3 (REV) .]

3. Employment. The commissioner may authorize the employment of prisoners of the Downeast Correctional Facility on public works with any department, agency or entity of the State, county or local government and may authorize the use of prisoners to provide assistance in the improvement of property owned by nonprofit organizations.

A. The commissioner shall promulgate such rules as he deems proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and departmental employees. [1983, c. 861, §1 (NEW).]

B. The purpose of the employment authorized in this subsection is to provide training to the prisoner and to be a form of public restitution for the crime or crimes committed by the prisoner. [1983, c. 861, §1 (NEW).]

C. The commissioner may request that nonprofit organizations pay for the transportation of the prisoners and pay the per diem compensation of correctional officers or instructors who must accompany the prisoners or oversee the work to be performed. [1983, c. 861, §1 (NEW).]

[1983, c. 861, §1 (NEW) .]

4. Escape. Any prisoner who escapes from the facility, or from any assignment beyond the grounds of the facility, to include community-rehabilitative programs is guilty of escape under Title 17-A, section 755.

[1983, c. 861, §1 (NEW) .]

5. Industries program.

[1985, c. 821, §26 (RP) .]

SECTION HISTORY

1983, c. 861, §1 (NEW). 1985, c. 821, §26 (AMD). 2005, c. 397, §D3 (REV).

§3905. DOWNEAST CORRECTIONAL FACILITY EMPLOYEES

Employees of the Downeast Correctional Facility have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the director. [1983, c. 861, §1 (NEW).]

SECTION HISTORY

1983, c. 861, §1 (NEW).

Subchapter 8: MOUNTAIN VIEW YOUTH DEVELOPMENT CENTER

§4101. ESTABLISHMENT

There is established the Mountain View Youth Development Center located in Penobscot County. [1991, c. 400, (NEW); 2001, c. 439, Pt. G, §8 (AMD).]

SECTION HISTORY

1991, c. 400, (NEW). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD).

§4102-A. PURPOSES; ACCOMPLISHMENT OF PURPOSES

1. Statement. The purposes of the Mountain View Youth Development Center are:

A. To detain juveniles pending a court proceeding; [2005, c. 328, §22 (NEW).]

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318-A; [2011, c. 282, §7 (AMD).]

C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F; [2005, c. 328, §22 (NEW).]

D. To protect the public from dangerous juveniles; [2005, c. 328, §22 (NEW).]

E. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 1, paragraph H; [2005, c. 507, §24 (AMD).]

F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D; [2007, c. 196, §8 (AMD).]

G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115; [2007, c. 686, §5 (AMD).]

H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7; and [2007, c. 686, §6 (AMD).]

I. To confine juveniles committed to a juvenile correctional facility pursuant to Title 17-A, section 1259. [2007, c. 686, §7 (NEW).]

[2011, c. 282, §7 (AMD).]

2. Accomplishment. To accomplish the purposes set out in subsection 1, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion as they are related to human relations and personality development must be employed. Security measures, whether in the form of physically restrictive construction or intensive staff supervision, when appropriate, may be taken to accomplish these purposes.

[2005, c. 328, §22 (NEW).]

SECTION HISTORY

2005, c. 328, §22 (NEW). 2005, c. 507, §§24,25 (AMD). 2007, c. 196, §8 (AMD). 2007, c. 686, §§5-7 (AMD). 2011, c. 282, §7 (AMD).

§4103. SUPERINTENDENT

1. Chief administrative officer. The chief administrative officer of the Mountain View Youth Development Center is called the superintendent and is responsible to the commissioner.

[2005, c. 488, §12 (AMD).]

2. Duties. In addition to other duties set out in this Title, the superintendent has the following duties.

A. The superintendent shall exercise supervision over the employees, grounds, buildings and equipment at the Mountain View Youth Development Center. [2005, c. 488, §12 (AMD).]

B. The superintendent shall supervise and control the juvenile detainees at the Mountain View Youth Development Center in accordance with department rules. [2005, c. 488, §12 (AMD).]

[2005, c. 488, §12 (AMD).]

3. Powers. In addition to the powers granted in this Title, the superintendent may appoint one assistant superintendent, subject to the Civil Service Law. The assistant superintendent has the powers, duties, obligations and liabilities of the superintendent when the superintendent is absent or unable to perform the superintendent's duties.

[2005, c. 488, §12 (AMD) .]

SECTION HISTORY

1991, c. 400, (NEW). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD). 2005, c. 488, §12 (AMD).

§4104. DETENTION

1. Eligibility.

[1999, c. 260, Pt. A, §11 (RP) .]

1-A. Eligibility. Only a juvenile, as defined in Title 15, section 3003, subsection 14, who is 11 years of age or older at the time of commitment may be committed to the Mountain View Youth Development Center pursuant to this subchapter and Title 15, Part 6.

[1999, c. 583, §42 (NEW); 2001, c. 439, Pt. G, §8 (AMD) .]

2. Limitations. A person may not be detained or confined in or committed to the facility if, upon petition by the commissioner or the commissioner's designee and after hearing, the court finds by a preponderance of the evidence that the person is more appropriately a subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services. Prior to the hearing, the court shall provide notice of the hearing in writing or orally to the juvenile, the juvenile's parents, the juvenile's guardian or legal custodian, the attorney for the State and the Department of Health and Human Services.

[2007, c. 536, §8 (AMD) .]

3. Certification. When a person is detained or confined in or committed to the Mountain View Youth Development Center, the court ordering the detention or commitment shall certify on the mittimus the person's birthplace, parentage and legal residence.

[2005, c. 507, §27 (AMD) .]

SECTION HISTORY

1991, c. 400, (NEW). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1999, c. 260, §A11 (AMD). 1999, c. 401, §J6 (AMD). 1999, c. 583, §42 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 439, §G8 (AMD). 2003, c. 689, §B6 (REV). 2003, c. 706, §A12 (AMD). 2005, c. 507, §§26,27 (AMD). 2007, c. 536, §8 (AMD).

§4105. JUVENILE DETAINEES GENERALLY

All juvenile detainees at the Mountain View Youth Development Center must be detained in accordance with the orders of the court and the rules of the department. [1991, c. 400, (NEW); 2001, c. 439, Pt. G, §8 (AMD).]

SECTION HISTORY

1991, c. 400, (NEW). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD).

§4106. POWERS OF EMPLOYEES

Employees of the Mountain View Youth Development Center have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the superintendent. [2005, c. 488, §13 (AMD).]

SECTION HISTORY

1991, c. 400, (NEW). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD). 2005, c. 488, §13 (AMD).

§4107. TRANSPORTATION

All court-ordered and court-related transportation of juvenile detainees to and from the Mountain View Youth Development Center is the responsibility of the sheriff of the county in which the court is located. [1991, c. 400, (NEW); 2001, c. 439, Pt. G, §8 (AMD).]

SECTION HISTORY

1991, c. 400, (NEW). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD).

§4108. OBSERVATION

1. Generally. When the behavior of a juvenile residing at the Mountain View Youth Development Center presents a high likelihood of imminent harm to that juvenile or to others, presents a substantial and imminent threat of destruction of property or demonstrates a proclivity to be absent from the facility without leave as evidenced by a stated intention to escape from the facility or by a recent attempted or actual escape from any detention or correctional facility, the juvenile may be placed under observation if the juvenile demonstrates that anything less restrictive would be ineffectual for the control of the juvenile's behavior.

[1991, c. 400, (NEW); 2001, c. 439, Pt. G, §8 (AMD) .]

2. Conditions. Placing a juvenile under observation is subject to the following conditions.

A. Placement under observation must first be approved by the superintendent. [2005, c. 488, §14 (AMD).]

B. The conditions under which a juvenile is placed under observation must conform with all applicable federal and state standards relating to the health and safety of clients in detention facilities. [1991, c. 400, (NEW).]

C. Placement under observation may not exceed the period of time necessary to alleviate and prevent the reoccurrence of the behavior described in subsection 1 and it may not be used as punishment. [1991, c. 400, (NEW).]

D. When placement under observation exceeds 12 hours, the superintendent shall direct the facility physician or a member of the facility medical staff to visit the juvenile immediately and at least once in each succeeding 24-hour period the juvenile remains under observation to examine the juvenile's state of health.

(1) The superintendent shall give full consideration to recommendations of the physician or medical staff member concerning the juvenile's dietary needs and the conditions of the juvenile's confinement required to maintain the juvenile's health. If the recommendations of the physician or medical staff member are not carried out, the superintendent shall immediately convey the reasons and circumstances for this decision to the commissioner for review and final disposition.

(2) Placement under observation must be discontinued if the superintendent, on the advice of the physician, determines that placement under observation is harmful to the mental or physical health of the juvenile, except that placement under observation may be continued if the behavior of the juvenile presents a high likelihood of imminent physical harm to that juvenile or others and

there is no less restrictive setting in which that juvenile's safety or that of others can be ensured. If placement under observation is continued, the physician or a member of the medical staff shall visit the juvenile at least once every 12 hours. [2005, c. 488, §15 (AMD).]

E. When placement under observation exceeds 24 hours, the superintendent shall direct appropriate facility staff to develop a plan for the further care of the juvenile. The plan must be revised as needed to meet the changing needs of the juvenile. [2005, c. 488, §16 (AMD).]

F. Placement under observation may not exceed 72 hours without the commissioner's approval, which must:

- (1) Be in writing;
- (2) State the reasons for that approval; and
- (3) Be kept on file. [1991, c. 400, (NEW).]

G. If the recommendations of the physician or medical staff member regarding the juvenile's dietary or other health needs while under observation are not carried out, the superintendent shall send a written justification to the commissioner. [2005, c. 488, §17 (AMD).]

H. A juvenile held under observation must be under sight and sound supervision by facility staff, which must be constant if necessary to prevent imminent harm to the juvenile. [2005, c. 328, §23 (AMD).]

[2005, c. 488, §§14-17 (AMD).]

SECTION HISTORY

1991, c. 400, (NEW). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD). 2005, c. 328, §23 (AMD). 2005, c. 488, §§14-17 (AMD).

§4111. POWERS OF COMMISSIONER

1. Juvenile client. The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to person, allowable property that the juvenile client has at the Mountain View Youth Development Center, earnings that the juvenile client receives during the juvenile client's stay at the Mountain View Youth Development Center and the rehabilitation of every juvenile client. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner, staff and rules of the Mountain View Youth Development Center until the expiration of the period of commitment or until discharge from the Mountain View Youth Development Center.

[1999, c. 583, §44 (NEW); 2001, c. 439, Pt. G, §8 (AMD).]

2. Juvenile detainee. The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner, staff and rules of the Mountain View Youth Development Center until release from the Mountain View Youth Development Center.

[1999, c. 583, §44 (NEW); 2001, c. 439, Pt. G, §8 (AMD).]

3. Psychiatric hospitalization. The commissioner has all the power over a juvenile client or juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary psychiatric hospitalization, including hospitalization in a nonstate mental health institution or hospital for the mentally ill. If a juvenile client or juvenile detainee is or becomes 18 years of age while still under commitment or while still detained, the statutory guardianship of the commissioner over the juvenile client or juvenile detainee

terminates, but the juvenile client or juvenile detainee remains subject to the control of the commissioner and staff and rules of the facility until the expiration of the period of commitment or until release or discharge from the facility. Nothing in this subsection may be construed to override the requirement to make application for psychiatric hospitalization in accordance with Title 34-B, section 3863, unless hospitalization is made with the juvenile client's or juvenile detainee's consent in accordance with Title 34-B, section 3831. If placement in a licensed residential care facility providing a mental health treatment program is an appropriate alternative to psychiatric hospitalization, that placement may be made by the commissioner with the juvenile client's or juvenile detainee's consent.

[2005, c. 328, §24 (AMD) .]

SECTION HISTORY

1997, c. 752, §42 (NEW). 1999, c. 583, §44 (RPR). 2001, c. 439, §G8 (AMD). 2001, c. 517, §2 (AMD). 2003, c. 410, §19 (AMD). 2003, c. 706, §A13 (AMD). 2005, c. 328, §24 (AMD).

§4112. COMMUNITY REINTEGRATION STATUS

1. Commissioner's powers. During a juvenile client's commitment to the Mountain View Youth Development Center, the commissioner may, at the commissioner's discretion:

A. Keep the juvenile client at the Mountain View Youth Development Center; or [1999, c. 583, §45 (NEW); 2001, c. 439, Pt. G, §8 (AMD).]

B. Place the juvenile client on community reintegration status for a period not exceeding the term of the juvenile's commitment. [2003, c. 410, §20 (AMD).]

[2003, c. 410, §20 (AMD) .]

2. Reports. As often as the commissioner requires, the person or agency caring for the juvenile client while on community reintegration status shall report to the commissioner:

A. The progress and behavior of the juvenile client, whether or not the juvenile client remains under the care of the person or agency; and [1999, c. 583, §45 (NEW).]

B. If the juvenile client is not under the care of the person or agency, where the client is. [1999, c. 583, §45 (NEW).]

[2003, c. 410, §20 (AMD) .]

3. Facility services. The commissioner shall provide community reintegration services to a juvenile client.

[2003, c. 410, §20 (AMD) .]

4. Cancellation. If the commissioner is satisfied at any time that the welfare of the juvenile client will be promoted by return to the Mountain View Youth Development Center, the commissioner may cancel the community reintegration status and resume charge of the client with the same powers as before the placement on community reintegration status was made.

[2003, c. 410, §20 (AMD) .]

SECTION HISTORY

1999, c. 583, §45 (NEW). 2001, c. 439, §G8 (AMD). 2003, c. 410, §20 (AMD).

§4113. RETURN TO THE FACILITY

When a juvenile client who has been placed on community reintegration status, who has been granted a furlough or work or education release or who has been absent from the Mountain View Youth Development Center without leave is taken into custody for the purpose of return to the Mountain View Youth Development Center by an officer or employee of the Mountain View Youth Development Center, at the direction of the commissioner, or by a law enforcement officer, at the request of the commissioner, and, because of the juvenile client's distance from the Mountain View Youth Development Center at the time of being taken into custody, it becomes necessary to detain the client overnight: [2003, c. 410, §21 (AMD) .]

1. Temporary detention. The juvenile client may be temporarily detained in a county jail; and
[1999, c. 583, §45 (NEW) .]

2. Return. The juvenile client must be returned to the Mountain View Youth Development Center on the day after being taken into custody, except that, if traveling conditions are unsafe, the client must be returned to the Mountain View Youth Development Center at the earliest possible time.

[1999, c. 583, §45 (NEW); 2001, c. 439, Pt. G, §8 (AMD) .]

SECTION HISTORY

1999, c. 583, §45 (NEW). 2001, c. 439, §8 (AMD). 2003, c. 410, §21 (AMD) .

§4114. DISCHARGE

1. Duty. The superintendent shall cause a juvenile client to be discharged from the Mountain View Youth Development Center when the client becomes 21 years of age or otherwise reaches the end of the period of the Juvenile Court's commitment.

[2005, c. 488, §18 (AMD) .]

2. Power. The superintendent may cause a juvenile client to be discharged from the Mountain View Youth Development Center when the superintendent determines that discharge is in the best interest of the client or that the client has benefited optimally from the services and facilities of the Mountain View Youth Development Center.

[2005, c. 488, §18 (AMD) .]

SECTION HISTORY

1999, c. 583, §45 (NEW). 2001, c. 439, §8 (AMD). 2005, c. 488, §18 (AMD) .

§4115. FEDERAL JUVENILE OFFENDERS

The commissioner may contract with the Attorney General of the United States for the confinement and support in the Mountain View Youth Development Center of juvenile offenders against the laws of the United States in accordance with 18 United States Code, Sections 706 and 707. [1999, c. 583, §45 (NEW); 2001, c. 439, Pt. G, §8 (AMD) .]

SECTION HISTORY

1999, c. 583, §45 (NEW). 2001, c. 439, §8 (AMD) .

§4116. DEPARTMENT OF HEALTH AND HUMAN SERVICES' CUSTODY

1. Suspension. When the custody of a juvenile at the time of commitment is in the Department of Health and Human Services, that custody must be temporarily suspended while the juvenile is in the Mountain View Youth Development Center.

[1999, c. 583, §45 (NEW); 2001, c. 439, Pt. G, §8 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Reversion. Upon discharge or placement on community reintegration status from the Mountain View Youth Development Center, the custody of the juvenile reverts to the Department of Health and Human Services, if the juvenile is still under 18 years of age.

[2003, c. 410, §22 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1999, c. 583, §45 (NEW). 2001, c. 439, §G8 (AMD). 2003, c. 410, §22 (AMD). 2003, c. 689, §B6 (REV).

§4117. YOUNG ADULT OFFENDERS

The commissioner may confine adults sentenced and committed to the custody of the department who have not attained 26 years of age in the Mountain View Youth Development Center as long as the housing facilities for adult offenders are fully separated from the housing facilities for juvenile clients and the commissioner maintains at all times full compliance with mandatory sight and sound separation standards established by federal law. All provisions of this Title that are applicable to prisoners apply to adult offenders confined in the Mountain View Youth Development Center as if they were confined in a correctional facility housing only adults. [2013, c. 28, §12 (NEW).]

SECTION HISTORY

2013, c. 28, §12 (NEW).

Subchapter 9: BOLDUC CORRECTIONAL FACILITY

§4201. ESTABLISHMENT

There is established the Bolduc Correctional Facility, referred to in this subchapter as "the facility," located in Warren in Knox County for the confinement and rehabilitation of persons who have been duly convicted and sentenced to the Department of Corrections. [2013, c. 508, §7 (NEW).]

SECTION HISTORY

2013, c. 508, §7 (NEW).

§4202. PURPOSES

The purposes of the facility include, but are not limited to, vocational and academic education and rehabilitative programs, including work release and work involving public restitution. [2013, c. 508, §7 (NEW).]

SECTION HISTORY

2013, c. 508, §7 (NEW).

§4203. DIRECTOR

1. Chief administrative officer. The chief administrative officer of the facility is called the director and is responsible to the commissioner.

[2013, c. 508, §7 (NEW) .]

2. Duties. In addition to other duties set out in this Title, the director has the following duties.

A. The director shall exercise proper supervision over the employees, grounds, buildings and equipment at the facility. [2013, c. 508, §7 (NEW) .]

B. The director shall supervise and control the prisoners at the facility in accordance with departmental rules. [2013, c. 508, §7 (NEW) .]

[2013, c. 508, §7 (NEW) .]

3. Powers. In addition to other powers granted in this Title, the director may appoint one assistant director, subject to the Civil Service Law; the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform the director's duties.

[2013, c. 508, §7 (NEW) .]

SECTION HISTORY

2013, c. 508, §7 (NEW) .

§4204. PRISONERS GENERALLY

1. Confinement of prisoners transferred to facility. All prisoners transferred to the facility must be detained and confined in accordance with the sentences of the court and the rules of the department.

[2013, c. 508, §7 (NEW) .]

2. Education. The director shall maintain suitable courses for academic and career and technical education of the prisoners. The director shall maintain necessary equipment and employ suitable qualified instructors as necessary to carry out the objectives of the facility's programs.

[2013, c. 508, §7 (NEW) .]

3. Employment. The commissioner may authorize the employment of prisoners of the facility on public works with any department, agency or entity of state, county or local government and may authorize the use of prisoners to provide assistance in the improvement of property owned by nonprofit organizations.

A. The commissioner shall adopt those rules as the commissioner considers proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and departmental employees. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2013, c. 508, §7 (NEW) .]

B. The purpose of the employment authorized in this subsection is to provide training to the prisoner and to be a form of public restitution for the crime or crimes committed by the prisoner. [2013, c. 508, §7 (NEW) .]

C. The prisoners employed under this subsection may not be compensated monetarily for work performed. [2013, c. 508, §7 (NEW) .]

D. The commissioner may request that nonprofit organizations pay for the transportation of the prisoners and pay the per diem compensation of correctional officers or instructors who must accompany the prisoners or oversee the work to be performed. [2013, c. 508, §7 (NEW) .]

[2013, c. 508, §7 (NEW) .]

4. Escape. Any prisoner who escapes from the facility, or from any assignment beyond the grounds of the facility, including assignment with community-rehabilitative programs, is guilty of escape under Title 17-A, section 755.

[2013, c. 508, §7 (NEW) .]

SECTION HISTORY

2013, c. 508, §7 (NEW) .

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